

**Town Centre Properties Limited
and
Star Explorations Limited**

CORRECTION

Page 20. Paragraph 60, last line

For: fixed changes

Read: fixed charges

BOARD OF TRADE

JANUARY 1968

LONDON: HER MAJESTY'S STATIONERY OFFICE

Town Centre Properties Limited
and
Star Explorations Limited

Investigation

under Section 165 of the Companies Act 1948

Report by

Mr. M. M. Wheeler, QC

and

Mr. C. E. M. Hardie, CBE, FCA

(Inspectors appointed by the Board of Trade)

LONDON

HER MAJESTY'S STATIONERY OFFICE

1967

In accordance with the provisions of section 169 (1) of the Companies Act 1948, the report has been referred by the Board of Trade to the Director of Public Prosecutions.

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TOWN CENTRE PROPERTIES LIMITED
STAR EXPLORATIONS LIMITED

REPORT

Introduction

1. By orders of the Board of Trade dated 4th October 1965 and 16th November 1965 respectively and made pursuant to Section 165 of the Companies Act 1948 we were appointed inspectors to investigate and report upon the affairs of Town Centre Properties Limited ('Town Centre') and of Star Explorations Limited ('Star').

2. Our investigation has proved to be a long and complex task because, as will be seen, the affairs of Town Centre and Star were not only themselves inter-linked; they were also closely connected with, and affected by, events in a number of other companies such as Sempah (Holdings) Limited ('Sempah'), Third Mile Investments Limited ('Third Mile') and Able Securities Limited, formerly Evan Williams (Holdings) Limited ('Able'), which at one time or another came broadly speaking under the same indirect control as Town Centre and Star.

3. In the course of our investigation, we have received help from a number of sources, including the reconstituted Boards of Sempah and Third Mile; Mr. G. A. Weiss, F.C.A., of W. H. Cork Gully & Co. who is now the liquidator of Able and one of the joint liquidators of Star; the Inspector General of Companies and other officials at the Board of Trade; the Stock Exchange; and the Fraud Squad of the City of London Police.

4. In addition, we have been assisted throughout our investigation by Mr. W. E. Jacques, M.C., F.C.A., and Mr. R. J. Rimington, F.C.A., both of Dixon, Wilson & Co.

5. During our investigation evidence has been taken, either by us or by our assistants on our behalf, from a large number of witnesses. Their names appear in Appendix A to this report. But we have been unable to question the two people who, between them, undoubtedly knew more than anyone else about the events with which this report is concerned; they are Mr. Nelson Robinson and Mr. F. R. Cradock, neither of whom is now in this country. Another important missing witness is Mr. Douglas Henderson who is also, we believe, abroad.

Even without the benefit of their help, however, we have, we think, obtained ample evidence from other sources to indicate the parts which they played in the affairs of Town Centre and Star.

We have not thought it necessary to examine any witnesses on oath.

6. In what follows, we have tried to keep to essentials. In an investigation such as this, there is always a temptation, in the search for truth, to extend the

scope of the investigation to unmanageable bounds. Thus there are a number of matters which come so to speak on the fringes of this report which, for one reason or another, we have not felt it essential to investigate in detail. Moreover, our task has not been made any easier by the paucity of documentary evidence and the unreliability of much of it.

Nevertheless, we are satisfied that the story which we have to tell is accurate in its essentials and is a fair presentation of the events which took place and of the principal personalities who were involved.

PART I

Town Centre to 7th May 1965

A. 1958 to July 1961

7. Town Centre was incorporated in 1905 as a public company under the name of Heidelberg Estates and Exploration Company Limited and carried on business mainly as an investment holding company; but by 1958, although its shares were still quoted on The Stock Exchange, London, it was virtually dormant.

8. In 1958, the whole of the then issued share capital of Town Centre was acquired, through nominees, by Mr. C. K. Rosen. Mr. Rosen, who had a considerable knowledge of the property world, carried on an estate agent's business under the firm name of Manning & Co. In addition, he and his wife owned, directly or through private property companies, a number of properties in London and elsewhere. Mr. Rosen's object in acquiring Town Centre was to convert it into a property investment company and, after injecting into it his and his wife's property interests, to make an issue of further shares to the public as soon as circumstances permitted.

9. The original intention was to make this public issue in the summer of 1959 but, in the event, it did not take place until July 1961. In the meantime, a number of steps were taken during what might be called the 'grooming' period:

- (a) the board of Town Centre was reconstituted (see paragraph 10 below);
- (b) application was made for the temporary suspension of Town Centre's quotation pending its reorganisation as a property company;
- (c) appropriate alterations were made to the constitution of Town Centre, its authorised share capital was increased and reorganised so as to consist of £350,000 divided into 3,500,000 shares of 2s. each and its name was changed to its present name;
- (d) Town Centre acquired a number of properties, principally from Mr. and Mrs. Rosen and either directly or through the acquisition of the share capital of private property companies owned by them, the consideration for which consisted for the most part of further Town Centre shares allotted credited as fully paid up;
- (e) Manning & Co. (Mr. Rosen's firm) were appointed to conduct the day-to-day management of the properties owned by Town Centre and its newly-acquired subsidiaries ('the Town Centre Group'), and Mr. Rosen himself acted (without remuneration) as property consultant to the Town Centre Group.

10. (a) The reconstituted board of Town Centre consisted of the following:

Sir Howard Roberts, chairman
(appointed 5th November, 1958)

Mr. D. H. Maxwell Stimson
(appointed 5th November 1958)

Mr. Edward Howard
(appointed 12th February 1959)

- (b) Sir Howard Roberts was a former Clerk to the London County Council and had a considerable knowledge of town planning. He was also a qualified solicitor and had for some years been associated in a consultative capacity with Walter Burgis & Co., Solicitors, in which firm Mr. Stimson was a partner. Mr. Stimson was instrumental in introducing Sir Howard to Mr. Rosen and it was as a result of this introduction that Sir Howard agreed to become chairman of Town Centre.
- (c) Mr. Stimson had been introduced to Mr. Rosen early in 1958 by another client of Walter Burgis & Co. and subsequently acted for Mr. Rosen in connection with the latter's acquisition of the Town Centre share capital. Following this acquisition, Walter Burgis & Co. were appointed solicitors to Town Centre and remained as such until the change of control, brought about by the sale of Mr. Rosen's shares, in May 1965.
- (d) Mr. Edward Howard was a partner in Charles Stanley & Co., Stockbrokers, of which firm Mr. Rosen was a client. Early in 1959, Mr. Rosen consulted Mr. Howard regarding his proposals for Town Centre and, more immediately, regarding the 'grooming' of Town Centre with a view to the proposed public issue and the procedure for restoring Town Centre's quotation. Mr. Howard thought that Mr. Rosen's proposals were feasible and was invited to join the Board.

These three gentlemen remained the sole directors of Town Centre until May 1965 when Mr. Rosen sold his controlling interest. They were also the sole directors of the Town Centre subsidiaries.

The secretaries to the Town Centre Group were Stentiford & Co., Chartered Secretaries ('Stentifords').

11. Mr. Rosen was clearly anxious to get men of repute and integrity to act as directors of Town Centre. He himself could not be a director because—for reasons which in our view are not material to this report—he was not acceptable to the Stock Exchange. This fact was known to the three directors.

12. Against this general background, and bearing in mind

- (a) that Mr. Rosen was the principal shareholder in Town Centre.
- (b) that his firm was responsible for the day-to-day management of the Town Centre Group and
- (c) that he himself was property consultant to the board, we considered it necessary to investigate in some detail the way in which the Town Centre Group's affairs were conducted during this period and the extent to which the three directors of Town Centre could fairly be said to have operated as an independent board.

We think it right to state that in our view throughout this period the board exercised an independent judgment in the discharge of their

duties and that Mr. Rosen for his part was equally scrupulous in his dealings with Town Centre.

B. Town Centre's 1961 prospectus

13. The public issue which Mr. Rosen had had in mind when he originally acquired Town Centre was made in July 1961 and consisted of an offer of 400,000 additional shares at 11s. 6d. per share. The offer (which was underwritten) was successful and resulted in the issued share capital of Town Centre being increased to £160,000 in 1,600,000 shares of 2s. each, of which well over half were owned by Mr. Rosen. Town Centre's quotation was thereupon restored.

14. The prospectus making this offer calls for little comment. To anyone reading it with even moderate care it was obvious that the Town Centre Group represented for the most part an amalgam of Rosen properties and that although Mr. Rosen himself was not a director it was his knowledge and property expertise which was the mainspring of the Group's potential. Two matters require notice:

- (a) Under the heading 'Management', the prospectus contained the following paragraph:

Over the past two years the present directors have been responsible for the acquisition of all the various properties of the Group in the United Kingdom and all decisions on policy are decided at regular meetings. The day-to-day management of the properties and the co-ordination of the development projects are supervised by Messrs. Manning & Co., Estate Agents, 118 Seymour Place, London W.1. Mr. C. K. Rosen who, as mentioned below, owns or controls a majority of the shares in the Company, is the Principal of Messrs. Manning & Co.

- (b) The prospectus also disclosed that by agreement with the directors Mr. Rosen had transferred to a nominee 800,000 of the 1,600,000 Town Centre shares then issued or about to be issued and that for a period of two years he had undertaken not to sell those shares, had vested the voting powers in the directors and had waived the right to receive any dividends thereon for any financial periods commencing prior to 1st April 1963.

15. As to (a) above, we are satisfied that the paragraph in question was a true statement of the position and moreover that so far as policy decisions affecting the business of the Town Centre Group were concerned the position remained unchanged after the issue of the prospectus.

As to (b) above, we are satisfied that this concept of a short-term voting trust and dividend waiver in respect of 800,000 of Mr. Rosen's shares (a concept which originated with Mr. Howard whose firm were brokers to the issue) was dictated by commercial considerations rather than by any distrust of Mr. Rosen. The practical position at the date of the prospectus was that the Town Centre Group was a relatively new and unproved organisation and its rental income was largely to be built up from developments which were incomplete at that time. Its attractiveness to the public was therefore likely to be materially enhanced if, for an initial period of two years—

- (a) only half the issued share capital was to rank for dividend, and
(b) Mr. Rosen, the property 'brains' behind the Group, was to be precluded from disposing of his controlling interest.

We should add here that Mr. Rosen subsequently waived any right to dividends on these 800,000 shares for the financial years ending 31st March 1964 and 1965.

C. July 1961 to May 1965

16. This period covers the time from the issue of the prospectus in July 1961 to May 1965 when Mr. Rosen sold his controlling shareholding.

17. By the end of 1963 Mr. Rosen appears to have begun to consider the possibility of selling his controlling interest in Town Centre. As he himself put it to us:

I was getting fed up somewhat. I was doing all the donkey work. Town Centre had been floated on my properties. There was no secret about it whatever: I was fed up, mainly due to the work I was doing and my health suffered: so I felt it best to sell.

18. During the latter part of 1963 and early 1964 a number of somewhat indeterminate discussions seem to have taken place for a take-over either of a controlling interest in Town Centre or of the whole of its share capital. One of these discussions was with a Mr. F. R. Cradock, but nothing came of any of them.

19. In the summer of 1964, the prospect of a General Election and the possibility of a capital gains tax lent added impetus to Mr. Rosen's desire to sell his holding and, in or about September, 1964, he appears to have re-established contact with Mr. Cradock. The directors of Town Centre were by this time well aware of Mr. Rosen's views and their main concern was to ensure, if they could, that any offer for Mr. Rosen's controlling shareholding in Town Centre would be accompanied by a similar offer for the minority shares. Mr. Howard was particularly insistent upon this, not only because of the known dislike by the Stock Exchange of partial take-over bids but also because a number of the minority shareholders in Town Centre were clients of Stanley & Co. who had taken up shares on the faith of Mr. Howard's association with Town Centre.

20. The result of the General Election in October 1964 only increased Mr. Rosen's determination to sell his controlling shareholding: and the directors, realising this, increased their pressure upon him to ensure that any offer should also include an offer for the minority shares. They even went so far as to seek offers themselves for the whole of the Town Centre capital. Their difficulty was that they had little knowledge of Mr. Rosen's negotiations.

21. By the middle of November 1964, Mr. Rosen's negotiations with Mr. Cradock appear to have reached a point at which he was prepared to disclose them, at least in general terms, to the Town Centre directors. Mr. Rosen informed Mr. Howard that he had a prospective purchaser for his majority shareholding, Bishopsgate Securities Limited ('Bishopsgate'), who, he said, was prepared to make a cash offer for the minority shares within six months at a price of not less than 12s. or 12s. 6d. per share. Bishopsgate was a subsidiary of Sempah, a quoted investment trust.

22. Mr. Rosen's disclosures caused the Town Centre directors considerable anxiety, principally because of the postponement of any offer for the minority

shares. Following an informal meeting between Mr. Rosen and the Directors on 20th November 1964 Mr. Howard, in an attempt to dissuade Mr. Rosen from accepting the Bishopsgate offer, wrote:

Many shareholders have invested their money in the business on the reputation of the board and we cannot stand by and see the interests of the minority shareholders being set aside for the benefit of someone who may buy control. I feel very strongly about this and I think it would be a tragedy if permission to deal in the shares were lost.

23. On 24th November 1964 Mr. Rosen wrote formally to each of the three directors outlining the offer which he had received for his majority holding. In this letter he said:

The proposal I have received is not for an outright cash purchase. It may well be, if these negotiations continue, the bulk of the purchase money will have to be loaned by way of mortgage or debenture. It is also possible that I may have to buy for cash part of the securities which are presently very low yielding, and I shall naturally do what I can to bring the matter to a head very soon.

He added:

In view of the foregoing, I trust you will consider the action I am taking and propose concluding to be proper and practical, and that I can look to you for your co-operation to assist in reaching an early finalisation.

In view of what ultimately transpired regarding the financing of the purchase of Mr. Rosen's majority holding, we asked each of the three directors what they had understood by the first of the two extracts from Mr. Rosen's letter which are quoted above. Understandably enough, none of them took the reference to the bulk of the purchase money having to be 'loaned by way of mortgage' as involving a loan to Town Centre. Mr. Howard thought that this statement was included to show why it was not practicable for the prospective purchaser to make an immediate cash offer for the minority shares as well.

All three directors took the reference to 'very low yielding' properties to mean a block of flats known as Embassy Court, completion of which had been delayed and which was largely unlet.

24. Mr. Rosen's letter of 24th November 1964 was considered at a board meeting on 25th November 1964. As a result, on the following day, Sir Howard Roberts, as Chairman, sent a formal reply in which he said:

The Board . . . feels in all the circumstances that before reaching any conclusions as to the attitude to be taken, we should have the opportunity of a meeting to discuss the matter. I am sure you will appreciate that while the board has no desire to act in prejudice of your interests as the majority shareholder, we must take all possible steps to protect the interests of the minority shareholders.

Sir Howard also asked for a copy of the letter of offer made to Mr. Rosen.

25. On 27th November 1964 Mr. Rosen sent replies to all three directors stating that

I have not received either a written or firm verbal offer for the whole or a majority shareholding . . . and until such time as a firm offer is received, it would be pointless to arrange a meeting of the Board for the sole purpose of discussing a position which has not yet arisen.

On 30th November 1964 Mr. Howard wrote to Mr. Rosen: 'We are most concerned with the position of the minority shareholders and I trust that we will

have a meeting before any offer is accepted.' Mr. Howard told us that about this time he obtained from Mr. Rosen an oral undertaking that he (Rosen) would not sell his holding without notice to Mr. Howard.

26. Nevertheless, the directors' anxiety regarding the position of the minority shareholders was not allayed, and on 22nd December 1964 they consulted experienced company counsel to see whether there were any steps which they could take to prevent Mr. Rosen from selling his own holding and leaving the minority shareholders out. Counsel advised that as a matter of law there was nothing that they could do.

27. The question of Mr. Rosen's negotiations for the sale of his majority holding was again raised with him at a board meeting on 12th January 1965. The minutes of this meeting merely record that Mr. Rosen's letter of the 27th November 1964 was noted, but by all accounts a fairly outspoken discussion ensued during which the directors expressed their disapproval of the circumstances in which Mr. Rosen was attempting to sell his shares. There appears also to have been some discussion as to whether or not the directors would be prepared to resign, and if so, on what terms.

28. Our impression is that from about mid-January 1965 onwards, the attitude of the Board was that there was nothing they could do to prevent Mr. Rosen from selling his majority holding; that in the event of such a sale they themselves would resign; but that it might still be possible to obtain from the purchaser some sort of undertaking that the sale would be followed, within a measurable period, by a reasonable offer for the minority shares. By the end of January 1965 Mr. Howard had indicated to Mr. Rosen that he would be satisfied with such an offer at 11s. 6d. per share within six months and with an appropriate joint announcement to that effect to the Stock Exchange. Mr. Howard told us that in agreeing to this price of 11s. 6d. per share he took into account the current market price of Town Centre shares (approximately 10s. 9d. per share in mid-January 1965) and also the fact that 11s. 6d. was the price at which the shares had been offered to the public under the 1961 prospectus.

29. So far as the directors were concerned, February 1965 seems to have been largely taken up with deciding the terms and conditions upon which they would be prepared to resign in the event of Mr. Rosen selling his majority holding. Their discussions culminated in a letter dated 2nd March 1965 from Sir Howard Roberts on behalf of the Town Centre board to Mr. Rosen in which he set out the terms and conditions as follows:

1. That at least three Directors qualified and willing to act and not objectionable to The Stock Exchange, London, are nominated for appointment to the Board immediately prior to the resignations becoming effective.
2. That the purchaser of the majority holding will give an undertaking under seal to the present Directors and each of them that not later than six months from the date of the contract for the purchase of the majority holding an unconditional offer in a form acceptable to The Stock Exchange, London, will be made to acquire in cash upon acceptance of such offer at a price of not less than 11s. 6d. per share all the shares in the capital of the Company not held by the purchaser at the date of the offer. Such offer shall be capable of acceptance by all or any of the holders of the shares to which it relates in respect of all or any part of their holdings.

3. That the purchaser of the majority holding will undertake to use its best endeavours to maintain the quotation of the shares in the capital of the Company by The Stock Exchange, London, until the expiry of the period of any such offer as aforesaid.
4. That the purchaser of the majority holding will undertake that unless such a resolution shall have been duly passed before the majority holding shall have passed out of your control, it will secure the passing of an ordinary resolution of the Company approving the payment of the sum of £2,500 to the present Directors by way of compensation for loss of office which payment is to be apportioned in such manner as the present Directors shall decide and made at the time of their resignations as aforesaid.
5. That upon receipt of the undertaking mentioned in paragraph 2 above, an announcement of its terms and of any other relevant information will be made immediately to The Stock Exchange, London, in a form previously to be notified to the present Secretaries of the Company.
6. That unless within two months the Directors shall be reasonably satisfied as to the transfer of the property and/or voting control of the majority holding as mentioned in the opening paragraph of this letter and unless the other terms and conditions of this letter shall be complied with within such period this letter shall cease to be effective.

30. On 18th March 1965 there was a substantial rise in the market price of Town Centre shares which led the directors to suspect that agreement had been reached for the sale of Mr. Rosen's shareholding. (As will be seen, the contract for the sale of the shareholding was, in fact, signed on that day). But the directors still had no detailed knowledge of the terms of the agreement; they did know by this time, however, that part of the agreement involved the sale by Town Centre to Mr. Rosen of the shares in two wholly-owned subsidiaries (Town Centre Flats Limited and Strand Securities Limited) because on 25th March 1965 Stentifords, as secretaries of Town Centre, wrote to Mr. Howard pointing out that such a sale would, under Stock Exchange regulations, require a public announcement to be made by the board. Town Centre Flats Limited owned Embassy Court to which reference has been made in paragraph 23 above.

31. On 13th April 1965 the directors received their first intimation from Mr. Rosen that he had entered into a formal contract for the sale of his majority shareholding. In his letter, Mr. Rosen stated that completion was expected to take place 'during the course of next week'. Mr. Rosen also enclosed what he described as an 'extract from the sale contract and other pertinent information for reference purposes' and offered to discuss the matter further with the directors if desired.

32. The 'extract from the sale contract' included, among other things, provisions to the following effect:

- (a) Town Centre was to sell to Mr. Rosen or his nominees at specified prices the whole of the issued share capitals of Town Centre Flats Limited and Strand Securities Limited, together with a freehold property in Queensway, London, and a leasehold property at Ryde, Isle of Wight, which were owned by two other Town Centre subsidiaries. An early board meeting was to be held to approve these transactions and the contracts, prepared by Mr. Lee of Tringhams (Mr. Rosen's solicitors), were to be executed on or before completion of the sale of Mr. Rosen's Town Centre shares.
- (b) The terms and conditions laid down by the Town Centre directors in Sir Howard Roberts' letter to Mr. Rosen of 2nd March 1965 (see

paragraph 29 above) were to be discussed by Mr. Stimson with Mr. Lee of Tringhams. The existing directors of Town Centre would be required to appoint to the boards of Town Centre and its subsidiaries persons nominated by the purchaser of Mr. Rosen's shares and would then themselves resign. Pending completion, the existing board was not, in effect, to do anything which might affect the *status quo*.

The 'extract' also dealt in some detail with a number of other matters in which the existing board was to be required to facilitate completion of the purchases mentioned in (a) above. But it is relevant to observe, in the light of what took place subsequently, that it contained no reference to the making of loans to Town Centre nor to any purchases of assets by Town Centre.

33. On the same day (13th April 1965) Mr. Lee of Tringhams sent to Mr. Stimson—presumably because Walter Burgis & Co. were Town Centre's solicitors—draft contracts for the sale to Mr. Rosen of the various assets referred to above and asked him to approve them as soon as possible.

34. These letters produced an immediate and understandable reaction on the part of the Town Centre directors. Mr. Stimson at once contacted his co-directors and with their approval (backed by Mr. Eley of Stentifords) he replied to Mr. Rosen on 14th April 1965 that 'the board would certainly not have its powers restricted in any way whatsoever'. Shortly after this the directors had a meeting with Mr. Rosen at which they made it clear to him that they would neither assist in implementing his contract for the sale of his shares (which they had never seen) nor would they sell any of Town Centre's assets. They were particularly concerned lest any sale by Town Centre of substantial assets to the majority shareholder (Rosen) without the approval of a general meeting might result in Town Centre's quotation being withdrawn.

35. It is convenient here to consider precisely what were the terms of the contract under which Mr. Rosen had agreed to sell his majority shareholding. Although he only informed the directors of the existence of this contract on 13th April 1965 the contract itself is dated 18th March 1965. The parties to the contract were Mr. Rosen (vendor) and Evan Williams (Holdings) Limited (purchaser). The latter, which shortly afterwards changed its name to Able Securities Limited and to which we refer in this report as 'Able', was an unquoted public company with which we shall deal in much greater detail in Part II of this report.

36. The main provisions of this contract of 18th March 1965 can be summarised as follows:

- (a) Mr. Rosen was to sell to Able 1,100,000 Town Centre shares for 15s. 6d. per share. Of the total purchase price so payable (£852,500) £5,000 was to be paid by way of deposit forthwith and the whole of the balance (£847,500) was to be paid on completion, which was to take place not later than 30th April 1965.
- (b) On completion, Mr. Rosen was to procure
 - (i) the appointment to the board of Town Centre and its subsidiaries of persons nominated by Able 'who shall be respectable and responsible

persons suitable to act as directors of a public company quoted on the London Stock Exchange'

and

(ii) the resignation of the existing directors.

- (c) Forthwith on the signing of the contract, the parties were to procure Town Centre to sell to Mr. Rosen the shares and properties mentioned in paragraph 32 above.
- (d) On completion of the purchase by Able of the 1,100,000 Town Centre shares, Mr. Rosen was to advance or procure the advance to Town Centre and/or its subsidiaries of a sum of £430,000 on the security of a mortgage on various specified properties of the Town Centre Group.
- (e) Seven days prior to completion of the sale contract, Able was to give the then directors of Town Centre an undertaking under seal in the following terms:

That we will not later than six months from the 18th day of March One thousand nine hundred and sixty five make unconditional offer in writing to purchase all shares not held by us in Town Centre Properties Limited at a price of not less than 11/6d. per share payable in cash upon unconditional acceptance and such offer shall be capable of acceptance by all or any of the holders of the shares to which it relates in respect of all or any part of their holdings and further that until such offer is made we will use our best endeavours to maintain the quotation of the shares in Town Centre Properties Limited by the Stock Exchange, London.

37. Clearly this sale contract could not be implemented in accordance with its terms without the co-operation of the existing Town Centre board: and by mid-April Mr. Rosen was well aware that this co-operation would not be forthcoming. It must be remembered that at this stage the Directors knew only—

- (a) that Mr. Rosen had contracted to sell his majority holding to a purchaser whom, despite requests to do so, they had never met;
- (b) that the sale also involved the purchase by Mr. Rosen at stated prices of substantial assets belonging to the Town Centre Group;
- (c) that the existing directors were being asked to approve and implement the sale of those assets and were thereafter to be replaced by Directors nominated by the new majority shareholder; and
- (d) that the latter was prepared to give an undertaking to make an offer for the minority shares of Town Centre at 11s. 6d. per share within six months.

Mr. Rosen was clearly determined to go ahead with his arrangements; on the other hand, the directors, not unnaturally, felt that they were being asked to be parties to an arrangement of which they had insufficient knowledge and for which they could not therefore reasonably be expected to accept responsibility.

38. Ultimately, in the face of considerable pressure from Mr. Rosen (who appears to have felt that the directors were over-stating the requirements of the Stock Exchange with regard to his proposed purchases of assets pursuant to the sale contract) Mr. Howard took Mr. Lee to an informal meeting with the Share and Loan Department of the Stock Exchange. As a result of this meeting, Mr. Howard told Mr. Lee that any sale of properties to Mr. Rosen would have

to be done by the new board of Town Centre after the sale of the majority holding had been completed and that the sales would have to be approved by a general meeting.

Ultimately, Mr. Rosen appears to have accepted this and arrangements for completion of the sale contract thenceforth proceeded on that basis.

39. It will be remembered that completion was originally due to take place not later than 30th April 1965. In the event, completion did not take place until 7th May 1965.

40. The delay was at least in part due to the need to get Stock Exchange clearance for the proposed new directors who were to take office, in place of the existing directors, at the commencement of the completion meeting. The names originally submitted for this purpose were Mr. Percy Salmond, the chairman of Able, and Mr. Gerald Henry, an insurance broker. Mr. Henry was apparently not acceptable to the Stock Exchange, and at a comparatively late stage before completion, a Mr. David Wood was substituted for Mr. Henry.

41. The so-called 'completion meeting' was eventually held on 7th May 1965. It was necessarily a somewhat complex affair with which we deal in greater detail in Section E of Part I of this report. For present purposes, we refer to it only insofar as it affected the three existing directors.

42. At the outset of the meeting Stentifords, as secretaries of Town Centre, produced letters of resignation from Sir Howard Roberts and Mr. Stimson, and Mr. Howard, as the sole remaining director, then appointed Mr. Salmond to the board. Following this, two written undertakings were produced executed by Able under seal; the first was an undertaking to procure the passing of a resolution at the next general meeting of Town Centre for the payment by Town Centre to the three retiring directors of £2,500 by way of compensation for loss of office: the second was an undertaking, already referred to in paragraph 36 (e) above, addressed to the three retiring directors under which Able agreed to make an offer for the minority shares of Town Centre within six months from 18th March 1965 at a price of 11s. 6d. per share and, in the meantime, to use its best endeavours to maintain Town Centre's quotation.

Once these undertakings had been handed over, Mr. Howard resigned and left the meeting.

Thereafter, none of the three former directors took any part in the management of the affairs of Town Centre or its subsidiaries.

43. So far in our account of the events leading up to the 'completion meeting' we have concentrated in the main on the picture as seen by the three directors.

It is now necessary to retrace our steps in order to see the same picture, at least in outline, through the eyes of Mr. Rosen.

D. Negotiations for the sale of Mr. Rosen's shares—November 1964 to May 1965

44. It will be remembered that in mid-November 1964 Mr. Rosen had given the Town Centre directors a general indication of the progress of his

negotiations for the sale of his majority shareholding. In outline, the basis of these negotiations was simple enough:

- (i) Mr. Rosen was to be paid 17s. 6d. per share (out of which he was apparently to pay Mr. Cradock an introductory commission of 2s per share):
- (ii) he was to purchase certain specified assets owned by the Town Centre Group (for a price in the neighbourhood of £225,000):
and
- (iii) he was to agree, if required by the purchaser, to leave a substantial part of the purchase price for his shares outstanding on the security of a short-term debenture to be issued to him by the purchaser.

45. Up to this point, Mr. Rosen's negotiations had been conducted exclusively with Mr. Cradock, who was apparently anxious that the sale should be completed by Christmas 1964. About this time Sempah (Bishopsgate's parent company) was substituted for Bishopsgate as the prospective purchaser of Mr. Rosen's shares and Sempah then instructed Mr. Donald Cottage of Donald Cottage & Co. Chartered Auctioneers, Surveyors, Valuers and Estate Agents, to value the properties owned by the Town Centre Group as a matter of urgency. Mr. Cottage's report, made on instructions given on 30th November 1964, was dated 14th December 1964.

46. It was about this time, so far as Mr. Rosen was concerned, that Mr. Nelson Robinson first appeared on the scene. He was an American who was introduced to Mr. Rosen by Mr. Cradock and Mr. Rosen understood him to be the representative of substantial American and Swiss financial interests and as the man who controlled Sempah, and with whom he (Rosen) would deal thereafter in connection with the sale of his shares.

47. Mr. Robinson may well have controlled Sempah. Our understanding is that in October 1964 Mr. Robinson and some associates (to whom, for brevity, we refer as 'the Robinson Group') had acquired a controlling interest in Sempah; and that Sempah controlled a company called Lubok Investments Co. Limited ('Lubok') which in turn controlled Third Mile. Prior to their acquisition by the Robinson Group, Sempah, Lubok and Third Mile had been orthodox investment trusts, all of which were—and continued to be—quoted on the London Stock Exchange.

48. Mr. Robinson appears to have had ambitious plans for Sempah and its subsidiaries, of which the acquisition of Town Centre undoubtedly formed part. These plans included somewhat vague proposals for injecting into Town Centre substantial additional properties which Mr. Robinson led Mr. Rosen to believe would be of the order of £1 million in value.

49. Mr. Robinson's plans seem to have complicated the hitherto reasonably straight-forward negotiations for the purchase of control of Town Centre, because he proposed to combine this purchase with the raising by Town Centre of substantial loans to enable it to finance the purchase of these additional properties. To this end, Sempah had already opened negotiations with Lombard Banking Limited ('Lombank') in December 1964 with a view to Town Centre raising a loan of some £600,000.

50. Throughout the negotiations for the purchase of Mr. Rosen's shares, both sides had legal advisers. Mr. Lee of Tringhams advised Mr. Rosen and from December onwards Mr. Geoffrey Lawson of Thornton Lynne & Lawson (who had been introduced to Mr. Robinson by Mr. Donald Cottage and was well-known to Lombank) advised Mr. Robinson and the prospective purchaser.

51. The combination of the purchase of Mr. Rosen's shares in Town Centre with the borrowing of substantial sums by Town Centre at once raised the question in the minds of the legal advisers concerned as to whether Mr. Robinson's plans might not possibly infringe section 54 of the Companies Act 1948 which prohibits a company from giving financial assistance, directly or indirectly, in connection with the purchase of its own shares.

52. In this connection, we think it only right to say that at this stage Mr. Robinson appears to have had no very clear idea of the precise mechanics for carrying out his plans for Town Centre. He put forward a number of ideas to Thornton Lynne & Lawson, and Mr. Lawson (who was from time to time assisted by his partner, Mr. Connick) told us that they had considerable difficulty in explaining to Mr. Robinson the possible implications of section 54. Moreover, it is at least doubtful how far Mr. Rosen and Mr. Lee were brought in to the details of these discussions.

53. A further complication arose about this time because Mr. Lee advised Mr. Rosen against accepting part of his purchase price in the form of a debenture to be issued by the purchaser. This was not unreasonable, because the debenture was to constitute a floating charge on the purchaser's assets and as the purchaser was an investment trust there were obvious disadvantages, from Mr. Rosen's point of view, in a security in that form. On Mr. Lee's advice, therefore, Mr. Rosen insisted that if he was to accept a debenture it must be secured by a fixed charge on specific assets.

54. By mid-February 1965, the position that had been reached appears to have been as follows:

- (a) Third Mile had been substituted for Sempah as the prospective purchaser of Mr. Rosen's shares;
- (b) the arrangements for Mr. Rosen to purchase certain assets from Town Centre and its subsidiaries as part of the deal remained unchanged but he was being pressed to allow a substantial part of the purchase price for his shares to remain outstanding on suitable security to be provided by the purchaser;
- (c) the purchase price for Mr. Rosen's shares had been reduced to 15s. 6d. per share by the elimination of the 2s per share commission which was to have been paid to Mr. Cradock. Mr. Lee told us that he had insisted upon this at an early stage because he had gained the impression that Mr. Cradock was not just a middle-man in the negotiations but was one of the principals behind Sempah. (Mr. Rosen told us that Mr. Cradock had previously required him (Rosen) to undertake to pay this commission to a Jersey company, Tocra Industrial Finance Corporation Limited, which Mr. Cradock apparently owned).

Mr. Cradock appears to have accepted this decision;

- (d) Lombank had informed Mr. Robinson that they were prepared to lend Town Centre £600,000 by way of short-term finance (eighteen months) on the security of a fixed charge on suitable properties owned by the Town Centre Group (as valued by Donald Cottage & Co. in December 1964) but that they would only do so *after* control of Town Centre had been acquired from Mr. Rosen and provided that the facilities thus offered were taken up by 15th March 1965.

55. Lombank's unwillingness to make any loan to Town Centre until after the change of control (which, they have told us, was due to their desire not to get involved in a situation which might possibly infringe Section 54) must have been a serious set-back for Mr. Robinson because it was this loan which was to enable Town Centre to pay for the additional properties which were to be injected into it simultaneously with the purchase of control from Mr. Rosen. In actual fact, of course (as will become apparent when we explain in detail how the purchase of Mr. Rosen's shares was subsequently financed), it was an integral part of Mr. Robinson's plan that these two operations should take place simultaneously. We have little doubt that he knew from the outset that it was only by selling additional assets to Town Centre (and thus extracting this loan from Town Centre in the form of the purchase price for those assets) that the Robinson Group would be able to obtain sufficient cash to pay for Mr. Rosen's shares.

56. It is difficult to say with any degree of certainty how much Mr. Rosen or Mr. Lee knew of Mr. Robinson's plans for financing the purchase of Mr. Rosen's Town Centre shares. There is no doubt that they were aware at an early stage of his intention to inject further substantial assets into Town Centre and they certainly knew well before completion that these assets might well include a sports centre at South Shields. They also knew that there were difficulties in finding cash for the whole of the purchase price which would become payable to Mr. Rosen. We think it not unreasonable to assume that they must have realised that the two were linked.

57. We should mention here that Mr. Rosen himself undoubtedly knew a good deal about the South Shields sports centre because early in February Mr. Cradock showed him a valuation of the sports centre made by Pilcher Hershman & Partners and asked him if he would recommend it to the Town Centre board for purchase by Town Centre. Mr. Rosen told us that he gave Mr. Cradock a somewhat guarded reply and stated that if a formal letter was written to him he would answer it. Such a letter was written, by Third Mile on 3rd February 1965, which stated that Third Mile was 'in course of negotiation' to acquire the sports centre. We shall have more to say about this Pilcher Hershman valuation later in this report (see Section B of Part II); for present purposes it is sufficient to say that as a reliable valuation it was in our view a highly unsatisfactory document which was unlikely to convince a man of Mr. Rosen's property experience, as was shown by the cautious way in which he replied to Third Mile's letter on 10th February 1965.

58. Nothing came of this approach. Mr. Cradock told Mr. Rosen that he wanted a letter from him recommending the purchase of the sports centre to Town Centre because 'If I could get a letter from you I could do a deal with

somebody.' We have little doubt that Mr. Cradock's approach was made with Mr. Robinson's knowledge and approval, and possibly at his instigation; but we do not know for certain what lay behind it. Possibly, if Mr. Rosen had written a sufficiently strong letter of recommendation, Mr. Robinson might have hoped to use it in his negotiations with Lombank: or he may have hoped to use it to persuade the then directors of Town Centre to co-operate in his plans for the purchase of Mr. Rosen's shares.

Whatever the reason, we do know from Mr. Rosen that Mr. Cradock subsequently tried hard—but without success—to get him to return the copy of the Pilcher Hershman valuation.

The knowledge which Mr. Rosen thus acquired of the South Shields sports centre, coupled with what he knew of the sports centre as one of the possible assets which Mr. Robinson planned to inject into Town Centre, is a factor to be borne in mind when we come to consider the way in which the purchase of Mr. Rosen's shares was ultimately financed.

59. Mr. Robinson's method of overcoming the difficulty created by Lombank's unwillingness to make an immediate loan to Town Centre was to persuade Mr. Rosen himself to step into the breach by agreeing to make, or procure, a substantial short-term loan to Town Centre in order to bridge the gap (then thought to be no more than a fortnight) between completion of the share purchase and the actual making of the Lombank loan. Mr. Rosen and Mr. Lee were assured by Mr. Lawson that this loan would only be required for a matter of a few days.

60. From Mr. Rosen's point of view this proposal was a completely new departure. It also, we think, caused Mr. Lee some momentary uneasiness in case any part of the proposed loan by Mr. Rosen to Town Centre were to be used to assist in the financing of the purchase of Mr. Rosen's Town Centre shares. We pressed Mr. Rosen, Mr. Lee and Mr. Lawson, when they gave evidence before us, to explain why, in these circumstances, the acquisition of properties by Town Centre was not postponed until after Mr. Rosen's shares had been bought and paid for. According to Mr. Lawson, Mr. Robinson told him that the Robinson Group were already under contract to complete the purchase of the properties which it was desired to inject into Town Centre and that completion of these contracts could not be postponed. Mr. Lee and Mr. Rosen took the view that as Mr. Rosen's loan would be repaid out of the Lombank loan in a matter of days it was better to make the loan rather than risk a breakdown of the negotiations: and Mr. Lee further told us that he had come to the conclusion, so far as Section 54 was concerned, that even if Mr. Rosen's loan was used to enable Town Centre to purchase properties from the Robinson Group and even if the purchase price paid by Town Centre was, in some way, used by the Robinson group to finance the purchase of Mr. Rosen's shares, no breach of section 54 would be involved. Accordingly, Mr. Rosen accepted Mr. Robinson's proposal and agreed to make a temporary loan to Town Centre, on completion, of £430,000 to be secured by fixed charges on specific assets owned by Town Centre and its subsidiaries.

61. Thus it was that the sale contract of 18th March 1965 which we have summarized in paragraph 36 above came to be signed, Mr. Robinson having nominated Able as the prospective purchaser in place of Third Mile a few days

previously. So far as Mr. Rosen was concerned this switch from Third Mile to Able caused no concern. He regarded Able as just another of the companies controlled by the Robinson group and he was convinced that he was dealing with men of substance.

62. For a variety of reasons, between the date of the contract (18th March) and the final completion meeting (7th May), various alterations were made in the arrangements:

- (a) instead of purchasing the share capital of Town Centre Flats Limited, Mr. Rosen was to purchase its main asset, Embassy Court; and (with this modification) all the assets which Mr. Rosen had contracted to purchase were to be purchased in the name of his family investment company, Linbourne Investments Limited ('Linbourne'), with Mr. Rosen guaranteeing the due performance of Linbourne's obligations.
- (b) the short-term loan which Mr. Rosen was to provide for Town Centre on completion was increased to £473,750 and was to be made by trustees of a family settlement ('the Rosen trustees')
- (c) the Rosen trustees were to make a further short-term loan to Town Centre of £173,250 secured on the properties which were to be purchased by Linbourne (see paragraph 65 below).

63. The Rosen Trustees consisted of Mr. Lee, Mrs. Dorice Rosen and Mr. Howard, that is, Mr. Rosen's solicitor, his wife and his stockbroker, Mr. Howard also being, of course, a director of Town Centre: and the money to provide the loan which they were to make was in turn to be lent to them, free of interest, by Mr. Rosen. Mr. Rosen explained to us that this was done so that any interest paid by Town Centre would be receivable by the Rosen Trustees on behalf of the settlement instead of being chargeable to high rates of tax if paid to him.

64. This decision appears to have been taken at a fairly late stage, because the first Mr. Howard knew about it (and then only in relation to the loan of £430,000 contemplated by the sale agreement of 18th March 1965) was in a letter from Mr. Lee of 14th April 1965. Mr. Howard told us that this proposal appeared to him to be bridging finance and that he was worried about the possible implications of Section 54 but that he consulted Mr. Lee and was assured that the transaction was perfectly in order. Not unnaturally, he relied upon Mr. Lee for legal advice on matters connected with the settlement.

65. The need for the additional loan to Town Centre of £173,250 arose partly from the attitude adopted by the then board of Town Centre (see paragraph 37 above) and partly from Stock Exchange insistence that the sales by Town Centre to Linbourne should be expressed to be conditional upon the approval of a General Meeting of the Town Centre shareholders. The combination of these factors meant that the sales could not be completed for several weeks; and as both Mr. Rosen and Mr. Robinson were anxious to implement the sale agreement of 18th March as soon as possible and as the purchase price to be paid by Linbourne was intended to be used by Town Centre to finance, in part, the purchase of additional properties on completion, it was apparently

agreed that the Rosen Trustees should make this additional short-term secured loan to cover the period between completion of the share purchase and completion (after approval by the Town Centre shareholders) of the sales to Linbourne.

66. Completion of the purchase of Mr. Rosen's shares was originally scheduled for the end of April 1965. By this time, of course, the time limit set by Lombank for taking up their offer of a £600,000 loan to Town Centre had long since expired, although they had remained in contact with Mr. Robinson and with Mr. Lawson. Ultimately, however, at the end of April or early in May 1965 they informed Mr. Lawson that they were not prepared to go on with arrangements for the loan until the position had been clarified to their satisfaction. The reasons which they gave for this were the delay which had occurred and the fact that the Government had recently issued a new directive on bank borrowing.

67. Lombank's decision, just when completion seemed assured, must have been a nasty jolt for Mr. Robinson. But once again he managed to get Mr. Rosen to come to his aid by persuading the latter to agree that the period for repayment of the larger loan which was to be made by the Rosen Trustees (£473,750) should be extended to December 1965 so as to give Town Centre time in which to replace it by long-term finance.

E. The 'completion meeting' of 7th May 1965

68. We now come to the so-called 'completion meeting' held at the offices of Stentifords on 7th May 1965. As a matter of law, of course, this involved a series of different meetings because the proceedings covered not only the completion of the sale of Mr. Rosen's shares to Able but also changes of directorships throughout the Town Centre group, the receipt and securing of the loans from the Rosen Trustees and the execution of conditional contracts for the various sales of assets to Linbourne. As will be seen, the proceedings were also to include the purchase by Town Centre of the share capital of Star for slightly more than £540,000.

69. The proceedings lasted several hours and appear to have been mainly organised by Mr. Lee. Fortunately for us, so far as Town Centre and its subsidiaries were concerned Stentifords (in the person of Mr. Burgess, a partner) were present as secretaries. Mr. Burgess took careful notes which were subsequently translated into a series of board minutes. We are satisfied that these minutes accurately record the various decisions which were taken insofar as they affected Town Centre and its subsidiaries.

We reproduce as Appendix B to this report the minutes of the board meeting of Town Centre itself. What follows should be read in conjunction with those minutes. The references therein to Evan Williams (Holdings) Limited are, of course, references to Able under its then name.

70. We have already dealt, in paragraph 42 above, with the proceedings so far as they affected the three existing directors of Town Centre. Only Mr. Howard was actually present, and he left at an early stage. So did Mr. Blackman, a partner in Walter Burgis & Co., who attended the first part of the proceedings as

representing Town Centre's then solicitors in place of Mr. Stimson, who was on holiday. All the major steps affecting Town Centre were taken by the newly elected directors, Mr. Salmond and Mr. Wood. The same applied in the case of Town Centre's subsidiaries.

71. It will be seen from Appendix B that the resolutions which were passed included the following:

- (a) the appointment of Thornton Lynne & Lawson as solicitors to Town Centre in place of Walter Burgis & Co. (minute no. 441)
- (b) the approval, subject to the consent of a general meeting of Town Centre, of contracts for the sale of the various assets to be purchased by Linbourne (minute no. 443)
- (c) the borrowing and securing of the two loans (£173,250 and £473,750 respectively) from the Rosen Trustees (minutes nos. 444 and 445)
- (d) the appointment of Mr. Robinson as financial consultant to Town Centre 'with the right to receive notices of and to attend board meetings' (minute no. 447)
- (e) the purchase by Town Centre from Able of the whole of the issued share capital of Star for £540,811. 13. 6 of which £540,000 was to be deposited with Able forthwith (minute no. 448).
- (f) a loan by Town Centre to Able of £107,000 'in accordance with a letter dated 7th May 1965 from Evan Williams (Holdings) to the secretaries' (minute no. 448) (see Section F of Part II of this report)
- (g) the preparation of an explanatory circular to the members of Town Centre and the convening of an extraordinary general meeting as soon as the circular had been cleared with the Stock Exchange (minute no. 449)

72. We shall deal with the history of Star in greater detail in Part II of this report. For present purposes, it is sufficient to note that Star was reported as being the owner of a lease of the South Shields Sports Centre. We should also add that the Star shares were the only asset which Town Centre contracted to purchase in connection with the completion proceedings.

73. Before considering the way in which the financial side of the 'completion meeting' was dealt with, it is convenient to summarise the principal transactions which were involved:

- (a) the Rosen Trustees were to lend Town Centre a total of £647,000 (i.e. £173,250 and £473,750) and were to be put in funds for this purpose by Mr. Rosen.
- (b) Town Centre was to deposit £540,000 with Able on account of the purchase price of the Star shares and was to make a loan to Able of a further £107,000. These two sums also totalled £647,000.
- (c) Able was to pay Mr. Rosen £847,500 for his shares (£5,000 of the total purchase price of £852,500 had already been paid by way of deposit on the signature of the sale contract of 18th March)

We disregard for this purpose the sales to Linbourne which, as already explained, were conditional upon approval by a general meeting of Town Centre and which could not therefore be completed for some weeks.

74. It had apparently been agreed that Mr. Lee should be responsible for clearing the various cheques and drafts which were to be exchanged during the completion proceedings. The need for these to be cleared simultaneously will shortly become obvious. The cheques and drafts in question were as follows:

- (a) a cheque for £647,000 from the Rosen Trustees in favour of Town Centre, representing the agreed loans of £173,250 and £473,750.
- (b) a cheque for £647,000 from Town Centre in favour of Able, representing the part payment for the Star shares (£540,000) and the agreed loan to Able (£107,000). This cheque was signed on behalf of Town Centre by Mr. Salmond as director and was countersigned by Stentifords as secretaries.
- (c) banker's drafts totalling £185,000 drawn on Barclays Bank Limited (£52,500) and National Commercial Bank of Scotland (£132,500).
- (d) a cheque from the Rosen Trustees in favour of Able for £15,500 representing a last-minute 14-day loan to Able made at Mr. Robinson's request on the security of 52,100 of the Town Centre shares which Able was purchasing from Mr. Rosen.
- (e) a cheque for £847,500 from Able in favour of Mr. Rosen, representing the balance of the purchase price for his Town Centre shares. This cheque was signed on behalf of Able by Mr. Salmond as a director and by Mr. Robinson as 'financial controller'.

No doubt there was also a cheque for £647,500 from Mr. Rosen in favour of the Rosen Trustees to enable them to make the agreed loans to Town Centre.

75. At the completion meeting Mr. Lee signed solicitors' undertakings to Town Centre and Able to pay in the cheques and drafts mentioned in (a) to (e) above to the credit of their respective bank accounts. These accounts were both at the Mount Street branch of Barclays Bank, Able having opened a new account at that Branch a few days before.

76. It will be observed:

- (i) that the loans from the Rosen Trustees to Town Centre ((a) above) in effect went straight over to Able ((b) above)
- (ii) that the cheques and drafts in favour of Able ((b), (c) and (d) above) totalled £847,500 which was the precise amount which Able required to pay Mr. Rosen for his Town Centre shares under (e) above.

77. It will thus be seen that (at all events to the extent of £647,000) the money which passed in connection with the above transactions merely went round in a circle. Mr. Rosen lent this sum to the Rosen Trustees; they lent it to Town Centre; Town Centre paid it to Able, partly in payment for the Star shares and partly by way of loan; and Able paid it back to Mr. Rosen in part payment for his Town Centre shares.

So far as Mr. Rosen was concerned, although at the end of the day he was still owed £647,000 (by the Rosen Trustees) this debt was in effect well secured because of the fixed charges to secure the like amount which Town Centre had given to the Rosen Trustees.

So far as Town Centre was concerned, it had borrowed £647,000 on secured loans from the Rosen Trustees and had promptly spent it (i) in purchasing the Star shares (£540,000) and (ii) in making an unsecured loan to Able (£107,000). Thus, the crux of the matter from Town Centre's point of view was

- (a) whether or not the Star shares were worth the price which Town Centre was paying;
- (b) whether there was any justification for Town Centre's loan to Able;
and
- (c) what prospects Town Centre had of finding monies to repay the short-term mortgage advances from the Rosen Trustees and at the same time meet pressing demands for working capital.

78. Before we chronicle the sequence of events in Town Centre after the change of control on 7th May 1965, we must retrace our steps once again in order to examine the history of Star so as to see what it was that Town Centre had acquired through its purchase of the Star share capital.

Star to 7th May 1965

A. Star's acquisition of the South Shields Sports Centre

79. This part of the story starts in the summer of 1964. At that time, the South Shields Sports Centre, which included a greyhound track, bowling alleys, a casino, restaurants and a petrol station, was being run by a quoted public company, South Shields Sports Stadium Limited ('South Shields') of which the Chairman and Managing Director was a Mr. R. H. Carter. South Shields owned the freehold of the sports centre subject to a mortgage of some £201,000 in favour of Epic Southern Properties Limited ('Epic'). South Shields operated the sports centre itself, except for the bowling alleys which it leased to a separate company controlled by Mr. Carter called Ten Pin Bowls (Durham) Limited ('Ten Pin').

Although very considerable sums had been spent in developing the sports centre, South Shields had for some time been in serious financial difficulty. This fact was public knowledge.

80. In July 1964 there had been legal proceedings between South Shields and Epic (1964 S. No. 2215) to which Ten Pin was also made a party. These proceedings arose out of the terms of Epic's mortgage and were eventually disposed of, by agreement, under terms of compromise which were scheduled to a court order dated 26th August 1964. The broad effect of these terms of compromise was as follows:

- (a) a subsidiary of Epic, Avenue Road Securities Limited ('Avenue'), was to purchase the freehold from South Shields at a valuation. Avenue was to take over (and in effect discharge) Epic's mortgage and was to pay South Shields the difference between the valuation figure and the amount of the mortgage. Avenue was at the same time to lease back the sports centre to South Shields for ninety-nine years at a rent based on the valuation figure, and this lease was to contain a ten-year option to the tenant to purchase the freehold at approximately the valuation figure. The valuation was to be made on the basis that the sports centre was free from encumbrances but no value was to be attributed to goodwill: if the valuation figure was less than £250,000 it was to be treated as being £250,000.
- (b) Ten Pin was to surrender its existing lease of the bowling alleys, the intention being that when South Shields obtained its ninety-nine-year lease it would then grant Ten Pin an underlease. These terms of compromise were almost certainly widely known.

81. In December 1964 the freehold of the sports centre was valued pursuant to the terms of compromise by one of the firms named therein (Rogers, Chapman & Thomas) at £215,000. Thus, for the purpose of working out the agreed settlement the value of the sports centre was £250,000.

82. Rightly or wrongly Mr. Carter regarded this valuation as being unjustifiably low and for some time he refused to implement the terms of compromise. His main difficulty was that South Shields was desperately short of money. It had upwards of £120,000 of unsecured creditors and the valuation figure would not enable it to obtain sufficient money to carry on. It was thus in great danger of being wound-up at short notice.

83. It was at this stage that Mr. Cradock appeared on the scene. He had apparently been interested in the possibility of acquiring the Sports Centre for some time and early in January 1965 he instructed Mr. Norman Holt, FALPA of Pilcher Hershman & Partners, Estate Agents, Surveyors, Valuers and Auctioneers, to value the sports centre as a matter of urgency; on 8th January 1965 Mr. Holt produced a written valuation (which we discuss in detail in Section B of Part II of this report) of £650,000 for the freehold of the property (including fixed plant and equipment) free from encumbrances. One of Mr. Holt's partners had apparently given Mr. Cradock a similar rough valuation some months previously.

84. South Shield's solicitors at that time were Samuels and Shine and Mr. Norman Shine of that firm had conducted the 1964 litigation on its behalf and knew a great deal about South Shields' financial difficulties. He had also known Mr. Cradock for several years and appears to have been impressed with Mr. Cradock's financial ability. Mr. Cradock asked him to open negotiations with Mr. Carter and gave Mr. Shine to understand that he (Cradock) was acting for a large group which included Star and Third Mile. Mr. Shine agreed to do so. In these negotiations, South Shields was not separately advised: Mr. Shine told us that he considered that as he himself knew so much about South Shields and as the negotiations were unlikely to produce anything for the South Shields shareholders this was unnecessary.

85. The proposition which Mr. Shine was instructed to put forward was stated to be on behalf of Star (see Section C of Part II of this report) and was broadly as follows:

- (a) Star would pay the unsecured creditors of South Shields 5s. in the £ and would take over (and release) their debts;
- (b) Star would also take over responsibility for certain obligations which South Shields had incurred to Brunswick Corporation (U.K.) Limited ("Brunswick"); these were in the nature of credit-sale obligations for bowling equipment and represented a liability of some £124,000 payable over a period of years;
- (c) in addition, Star would purchase and discharge a six-months option on the sports centre which had apparently been granted to a Mr. B. W. Ashmore in October 1964 (for the nominal sum of £1) to purchase the freehold, free from encumbrances, for £400,000.
- (d) in return for the above, South Shields would sell the sports centre (or, more accurately, South Shields' rights under the terms of compromise) to Star.

86. This offer was eventually put by Mr. Carter, somewhat reluctantly and without naming the offeror, to a meeting of the unsecured creditors of South Shields held on 14th January 1965. Most of the creditors agreed to accept the composition of 5s. in the £ (the few who did not were eventually paid out in full) and on 28th January 1965 an agreement was signed between South Shields and Star. This agreement, which was settled by counsel and was signed on behalf of Star by a Mr. Douglas Henderson, provided, *inter alia*, that Third Mile would, if required by Epic, guarantee Star's obligations under the ninety-nine-year lease which, under the terms of compromise, was to be granted to South Shields. According to Mr. Shine, Mr. Cradock told him that Star was a subsidiary of Third Mile.

87. The plan for the future operation of the sports centre (as explained by Mr. Cradock to Mr. Shine) was that Star would form three subsidiaries which would take twenty-one-year underleases of, and would operate respectively, the greyhound track, the casino and the petrol station, leaving the bowling alleys to be run by Ten Pin on its own under a separate underlease. The rents to be paid by the three subsidiaries were apparently based on estimates of the profits which the subsidiaries were expected to make; in the case of Ten Pin, its existing lease from South Shields (for thirty-five years from October 1963 at £24,000 per annum) which was to be surrendered under the term of compromise was to be replaced by a similar underlease from Star of slightly larger premises at a rent of £30,333 per annum. The total annual rent receivable by Star under the four underleases was £75,333 (with a reversion to three of them after twenty-one years and to the fourth after approximately 33½ years). These rents appear to have been calculated on the basis of an estimated net profit (before rent and tax) for the sports centre as a whole of £130,000 per annum.

88. The working out of the Star/South Shields agreement of 28th January 1965 inevitably took some time and completion did not take place until 26th February 1965. In the meantime, Mr. Shine, on behalf of Star, had dealt with the South Shields creditors; £60,000 had been paid to Mr. Ashmore to discharge his option; and Mr. Shine had acquired 'off-the-peg' three companies to act as the Star subsidiaries. These were (i) Gleswing Limited (for the greyhound track); (ii) Englastown Limited (for the casino) and (iii) Transicca Limited (for the petrol station). Mr. Shine had also made the necessary conveyancing arrangements for the ninety-nine-year lease to South Shields (and its assignment to Star) and for the four underleases from Star to Ten Pin and the three subsidiaries. The necessary funds for these purposes, amounting in all to £96,475, seem to have been provided by Douglas Henderson Limited on behalf of Star; and repayment of this sum by Star was ultimately waived by Douglas Henderson Limited under a Deed of Waiver dated 6th May 1965 (i.e. on the eve of Star's acquisition by Town Centre). The ninety-nine-year lease (at an annual rent of £25,425) and its assignment to Star (guaranteed by Third Mile) were executed on 26th February 1965. The underleases were probably executed about the same time but we have reason to think that they were never stamped.

B. The Pilcher Hershman valuation of the sports centre

89. We must now interrupt our narrative to consider in greater detail the Pilcher Hershman valuation and the circumstances in which it was made. As

already mentioned, it was prepared on instructions from Mr. Cradock to Mr. Holt given on or about 4th January 1965 and was completed four days later.

90. Mr. Cradock had apparently had a chance meeting with Mr. Holt (on a matter not connected with our investigation) at the beginning of October 1964. At that meeting, Mr. Cradock had said he was interested in acquiring the sports centre on behalf of a large public company (which he did not name) which would take over the sports centre 'lock, stock and barrel' and would then let it to a subsidiary on a twenty-one year lease at £70,000 per annum; and that 'the whole affair' before rent and tax would produce £130,000 per annum. Mr. Cradock told Mr. Holt he would receive instructions to value the sports centre and asked him what he thought it was worth. Mr. Holt did some rough calculations (which we have seen) and arrived at a tentative figure, on the basis of what he had been told, of £647,500.

91. Mr. Holt's next meeting with Mr. Cradock was at the beginning of January 1965. At that meeting Mr. Cradock amplified what he had said in October. According to Mr. Holt he said that the freehold of the sports centre was to be purchased by Star (which he described as a wholly-owned subsidiary of Town Centre) who would then re-sell it to Town Centre and take a 21-year lease back at a rent of £70,000 per annum. He also said (incorrectly) that Mr. Carter was a director of Star. Mr. Holt understood that his firm were being instructed to make the valuation by Town Centre and he asked, in a letter to Mr. Cradock of 4th January 1965, for written instructions.

92. Mr. Holt may have misunderstood Mr. Cradock. At all events, on the same day Mr. Cradock sent a written reply stating that the valuation was to be made on behalf of Star, that Star would have a lease of the whole of the sports centre and 'will then be in the course of resell to Town Centre Properties Limited.' Mr. Cradock said that negotiations for this purpose were already in hand and stressed the need for carrying out the valuation without delay. Despite the apparent inconsistency in these instructions, Mr. Holt appears to have been asked to make a freehold valuation.

93. Mr. Cradock's letter of 4th January concluded with the following surprising paragraph:

We further confirm that unless the Valuation is in excess of £650,000, then we would not have the authority to instruct you. What may be of more interest to you is that the moment your Valuation is prepared, ready and submitted together with your account that this will be discharged, as we are in receipt of funds.

94. Mr. Holt told us that he did not regard that statement as anything unusual.

95. Mr. Cradock amplified his written instructions in a further letter to Mr. Holt on 5th January 1965 in which he explained that each sports entity at the sports centre would be run by a separate company which would be a subsidiary of Star. He gave brief details of the leases which were being prepared and pointed out that the aggregate rent of £75,333 was 'a little better than we

anticipated' i.e. than the rent of £70,000 which he had mentioned in October. On 7th January 1965 Mr. Holt visited South Shields and inspected the sports centre.

96. Mr. Holt's written valuation was completed on the following day. It was addressed to the directors of Star but Mr. Holt told us that he handed it to Mr. Cradock. It is a longish document illustrated by photographs. After stating that Pilcher Hershman had been advised that the property was freehold, it described the general make-up of the Sports Centre and continued:

We are informed that it is the intention of the Directors to arrange separate Leases in respect of the various functions of the sporting activities, etc. concerned and a separate subsidiary company of Star Explorations Limited will be formed for each entity. The following Schedule of your proposals has been supplied to us and we understand that these various subsidiary companies' leases are in course of preparation, with the exception of Lease No. 2 which has been in existence for approximately 12 months, and the benefit of this Lease will be assigned to the new Lessor.

Short particulars of the four leases were then given. (Lease no. 2 was the lease to Ten Pin). Finally, after dealing in some detail with the property to be comprised in the four leases, the valuation concluded with the following paragraphs:

We assume that in view of the rentals and leases having been agreed, the Directors will have satisfied themselves as to the general income potential from the public and from the various undertakings. The total rental income from the subsidiary leases will be £75,333 (SEVENTY-FIVE THOUSAND, THREE HUNDRED AND THIRTY-THREE POUNDS), exclusive of all outgoings, apart from Management, and for this latter a small service charge will be levied on the various undertakings.

The Stadium has been valued free from any material incumbrances and while the goodwill of the businesses carried on therein has been ignored in view of our remarks in the previous paragraph, the effect of the various operations has, however, been considered as regards the value of the Stadium as a property and this value, based on the information with which we have been provided, is in our opinion, fairly represented in the sum of £650,000 (SIX HUNDRED AND FIFTY THOUSAND POUNDS).

For making this valuation, Pilcher Hershman received an agreed fee of £1,050.

97. Earlier in this report we have described this valuation as a highly unsatisfactory document. Our main reason for saying this is that Mr. Holt's value of £650,000 seems primarily to have been based on the rents which would be payable to Star under the four leases, but that these rents in turn necessarily depended on estimates of profits the accuracy of which he appears to have made little or no effort to check. He neither asked for nor received any figures for actual receipts and expenditure; he did not even inspect any balance sheets of South Shields. He did tell us that when he was working on his valuation in Mr. Carter's office he found, apparently quite by accident, some figures for the previous week's income and outgoings and that when he added them up and multiplied them by 52 they worked out to £130,780 per annum. All he really seems to have been given (apart from details of the rents to be paid under the underleases) were estimates of income and outgoings under eight separate headings. The combined net profit as shown by these estimates, after allowing for wages and general expenses, was only about £100,000 per annum: even so, he does not appear to have queried the discrepancy between this figure and £130,000. In another calculation, Mr. Holt arrived at a net profit figure of £106,500 which

he reduced somewhat arbitrarily to £96,500. He told us that he only used these estimates as a check; that he relied mainly on the agreed total rental which Star was to receive, namely, £75,333; and that this figure capitalised at 11½ per cent on the basis of 8·65 years purchase produced his figure of £650,000. This calculation, as he admitted to us, was one that could have been done quite readily without any inspection of the property at all; and he agreed that its validity depended entirely on the accuracy of the estimates which he had been given; but he defended his valuation on the ground that he made this point clear in the concluding paragraphs of his valuation which we have quoted in paragraph 96 above. Nevertheless he had taken no steps, so far as we can see, to ascertain whether there was any concrete evidence that the profits which Ten Pin and the subsidiaries would need to earn in order to pay the agreed rents could in fact be made.

98. Mr. Holt must have realised that his valuation was required in connection with the purchase of the Sports Centre by Star: he must also have realised that it might form the basis of the resale by Star to Town Centre, although in this connection it is only fair to point out that he had been led to believe that Star was a wholly-owned subsidiary of Town Centre. Quite apart from these considerations, however, the real vice in this valuation, in our view, was that it enabled the Robinson Group to represent (as they subsequently did) that Star owned assets the freehold of which had been professionally valued at £650,000.

C. The origins of Star and its acquisition by Third Mile

99. It seems almost certain that at the time when the Star/South Shields negotiations commenced, Star did not belong to the Robinson Group at all, or to anyone connected with it.

100. Star was an unquoted public company which had been incorporated in 1910 and which, by 1964, had an issued capital consisting of 1,174,285 2s. stock units. The whole of this share capital appears to have been purchased in October 1964 by a Mr. Seymour Kraft and its principal asset as at 31st December 1964 consisted of an unsecured loan to Mr. Edmund Stelkel and Mr. Kraft of £126,889. Early in January 1965 Mr. Kraft apparently sold the whole of the share capital to Douglas Henderson Limited for a nominal sum of £1,000 coupled with some form of undertaking to take over the Stelkel/Kraft loan.

101. Douglas Henderson Limited was a small private company of which Mr. Douglas Henderson and his wife were the sole shareholders and directors. Mr. Henderson had recently been concerned in an unsuccessful venture connected with golf centres and it was possibly because of this association that he became involved in the affairs of Star. We have not been able to contact Mr. Henderson and we do not know how he came to be associated with what we have described as 'the Robinson Group.' The course of subsequent events suggests, however, that he can fairly be included in that description, although he appears to have played a relatively subordinate role. Be that as it may, by mid-January 1965 Douglas Henderson Limited had apparently become the owner of the share capital of Star although no share transfers were registered at the time.

102. On 15th January 1965 Mr. Henderson paid into Star's account a banker's draft for £129,498. 10s. which was applied in its books in discharging virtually the whole of the Stekel/Kraft debt and interest. This draft was in fact financed by Bishopsgate. On the previous day the board of Star had resolved to place a similar sum (£129,498 10s) on deposit with Douglas Henderson Limited 'at 6 per cent.' According to Star's cash book this sum was paid to Bishopsgate on 15th January 1965 on the instructions of Douglas Henderson Limited but was treated in Star's accounts as having been deposited with Douglas Henderson Limited in accordance with the board resolution. The effect of this was to substitute Douglas Henderson Limited for Messrs. Stekel and Kraft as Star's debtor.

103. On 29th January 1965 (the day after the signing of the Star/South Shields agreement) Douglas Henderson Limited entered into a contract to sell the whole of the Star share capital to Third Mile. This agreement, which was prepared at short notice by a different firm of solicitors, Whitfield, Byrne and Dean, is not an easy document to construe. Its main provisions (or at least their intended effect) can, we think be summarised as follows:

- (a) Third Mile was to purchase from Douglas Henderson Limited the whole of the issued share capital of Star for £400,000 in cash, of which £80,000 was to be paid on completion and the balance of £320,000 was to be paid on or before 15th February 1965. In addition, Third Mile was to take over liability for repaying to Star £128,500 'that is currently on deposit with (Douglas Henderson Limited)'. This was, we think, intended to refer to the slightly larger sum which Star had recently deposited with Douglas Henderson Limited (see paragraph 102 above).
- (b) The purchase price was stated to have been calculated on the basis of Star's balance sheet as at 31st December 1964 and on the Pilcher Hershman valuation.
- (c) Prior to completion, Douglas Henderson Limited was to procure the freehold of the sports centre (subject to the Epic mortgage and to the four leases to Ten Pin and the three Star subsidiaries) to be conveyed to Star. Third Mile was also to pay £25,000 in reduction of the Epic mortgage (see paragraph 104 below).
- (d) In addition to giving a number of warranties, Douglas Henderson Limited undertook to procure the appointment to the board of Star of a Major H. R. Spence and a Mr. William Sassoon.
- (e) Finally, and apparently as something of an afterthought, Douglas Henderson Limited undertook to guarantee the rent payable to Star under the four leases for a period of three years.

104. A schedule to the above agreement contained short particulars of the freehold at South Shields and of the Epic mortgage (Epic there being referred to by its former name of Southwood Development Company Limited), and the three leases to the (named) Star subsidiaries were shown as having commenced on 25th December 1964. The provisions mentioned in (c) above seem to have proceeded on the assumption that Star was acquiring the freehold of the sports centre subject to the Epic mortgage. This would have been quite inconsistent with the terms of compromise and with the Star/South Shields agreement of 28th

January 1965 and must, we think, have been included in the Henderson/Third Mile agreement because the solicitors who prepared it had been incorrectly instructed. So far as we are aware, no payment of £25,000 was ever made to Epic.

105. Nevertheless, the fact that provisions such as these could apparently have found their way into the Agreement of 29th January as finally executed throws a vivid light on the haphazard methods of the parties.

106. The Star minute book records Major Spence as having been appointed a director of Star on 14th January, 1965. This is almost certainly incorrect, but about this time he was undoubtedly approached by Mr. Henderson (with whom he had been associated in the golf centres enterprise) and invited to join the board of Star with a view to assisting in the running of the South Shields Sports Centre. The Third Mile minute book records the appointment of Major Spence as a director and chairman of that company on 28th January 1965 on the proposal of Mr. Robinson to whom he had been introduced shortly before by Mr. Henderson. At that time Mr. Robinson was a director of Third Mile (having been appointed on 27th January 1965) but resigned his directorship shortly afterwards (on 5th February 1965) to become Third Mile's 'financial consultant.' Major Spence told us that at the date of the Henderson/Third Mile agreement he had very little knowledge of Star or of the sports centre: and that as a newly-elected Director of Third Mile he thought the proposal to acquire the Star share capital was virtually a *fait accompli*.

107. From information which we have received from the board of Third Mile it is clear that, following the acquisition of control of Third Mile by the Robinson Group in October 1964, most of Third Mile's portfolio of investments (other than shares in such companies as Sempah and Lubok) had been sold. By January, 1965, therefore, Third Mile had substantial sums available in cash.

108. The total cost to Third Mile of acquiring Star, as shown in Third Mile's ledger account, was £530,811 13s. 6d. made up as follows:

29th Jan. 1965	Liability for debt due to Star (£128,500) plus interest (£2,311 13s. 6d.)	£130,811 13s. 6d.
	Cash—Douglas Henderson Limited	£80,000 — —
11th Feb. 1965	" " " "	£45,000 — —
12th Feb. 1965	" " " "	£80,000 — —
26th Feb. 1965	" " " "	£75,000 — —
16th Mar. 1965	" " " "	£120,000 — —
		<hr/> £530,811 13s. 6d. <hr/>

Having regard to the nature of the first of the foregoing items, the effective cost to Third Mile of acquiring Star was thus £400,000.

109. Even allowing for the fact that South Shields may have been in no position to bargain with Star in January 1965, and even if the sports centre might conceivably have been thought to have a greater value than had been put upon the freehold by Rogers, Chapman & Thomas under the terms of compromise,

the contrast between (i) the cost to Star of acquiring a leasehold interest in the sports centre (£96,475—see paragraph 88 above) and (ii) the price at which, virtually at the same moment, Third Mile was acquiring the share capital of Star (£400,000) is to us, staggering. Moreover, Third Mile's purchase (unlike so many of the transactions with which this report is concerned) was paid for in hard cash by means of banker's drafts. Where that cash ultimately went from Douglas Henderson Limited we do not know. But it is not difficult to guess.

110. Mr. Robinson was subsequently advised that the provision under which Third Mile was to take over liability for the £128,500 deposit might not be legally effective. Accordingly a supplemental deed was entered into on 26th February 1965 under which Third Mile undertook with Douglas Henderson Limited to repay that sum (and any interest) to Star.

D. The acquisition of Able

111. Shortly after Star's acquisition by Third Mile, Star itself purchased the greater part of the issued share capital of Able. Able was a public company which had formerly been, but was no longer, quoted. It had an issued capital of £150,000 in 3,000,000 1s shares of which 2,812,802 were owned by a well-known commercial group. (Except that a company in this group was the vendor to Able, this group has no further connection with our investigation). Able (at that time called Evan Williams (Holdings) Limited) was more or less a 'shell' company whose sole asset was a sum of approximately £129,000 cash at bank and Star purchased the 2,812,802 shares of Able for approximately this amount. The agreement itself, dated 12th February 1965, calls for no special comment except to mention that the vendor required a guarantee of Star's obligations thereunder and that this was given under a separate deed of the same date by Lubok and was executed on behalf of Lubok by Mr. Robinson. On 12th February 1965 the three then directors of Able resigned and were replaced by Mr. Salmond and a Mr. Winter.

112. We were for a long time puzzled as to why Star should have made this purchase at all, particularly since we found Able eventually selling the Star share capital to Town Centre. The explanation is, apparently, that the original intention had been to make this purchase through another company altogether, Able Trust Limited, but according to a board minute of Star dated 11th February 1965 and signed by Mr. Henderson as chairman it was eventually decided that Star should be substituted as the nominal purchaser to make the purchase as agent for Able Trust Limited.

We know little more about Able Trust Limited (other than that it was a small private company of which Mr. Salmond was a director); nor do we know who was the true owner thereafter of this majority holding in Able itself. But subsequent events leave little doubt that Able was at all material times controlled by the Robinson Group.

113. We have already mentioned that at a comparatively late stage in the Rosen/Robinson negotiations Able was substituted for Third Mile as the prospective purchaser of Mr. Rosen's Town Centre shares. This decision was reflected in Able's books in a board minute, signed by Mr. Salmond, of a meeting of the two Able directors (Salmond and Winter) which is stated to have been

held at a London hotel on the 12th March 1965, when it was resolved that Able should purchase 1,100,000 Town Centre shares from Mr. Rosen at 15s. 6d per share, for a total purchase price of £852,500.

114. According to further Able board minutes, also signed by Mr. Salmond and purporting to be a record of a directors' meeting held at the same London hotel on the 18th March 1965, the two Able directors then resolved that Able should purchase the Star share capital from Third Mile for £540,811 13s. 6d. to be satisfied as to £130,811 13s. 6d in cash and as to £410,000 in Town Centre shares at the 'middle market price on the day of completion.' 18th March 1965 was, of course, the day on which the Rosen/Able sale contract was signed; and the same board minutes record the sealing of that contract on behalf of Able.

115. We think it probable that the 'board minutes' referred to above merely reflect meetings which Mr. Salmond (and possibly Mr. Winter also) had with Mr. Robinson at the latter's hotel and represent an attempt to translate into formal terms decisions which Mr. Robinson required to be taken.

116. We should here interpose to mention that on the 28th April 1965 Able borrowed a sum of £200,000 from bankers, Singer & Friedlander Limited, which was subsequently secured on a large block of Town Centre shares. We deal with the history of this loan in greater detail in Part IV of this report. For present purposes it is sufficient to say that the main purpose of the loan was undoubtedly to help Able to bridge the gap between the £847,500 which Able was due to pay to Mr. Rosen for his Town Centre shares and the £647,000 which Able was to receive (partly as purchase price for the Star shares and partly by way of 'deposit') from Town Centre.

E. Third Mile, Star, and Able

117. As already mentioned (paragraph 110 above) Third Mile had taken over from Douglas Henderson Limited the latter's obligation to repay a total of £130,811 13s. 6d to Star. On 30th April 1965 Third Mile paid this sum to Star, having first borrowed the like amount from Able. At this stage, therefore, Third Mile owed Able £130,811 13s. 6d.

118. According to the Star minute book, on 30th April 1965 the then directors of Star (Major Spence and Mr. Sassoon) resigned in favour of Mr. Salmond and Mr. Henry, and on 6th May 1965 Mr. Henry was appointed managing director of Star at a salary of £1,000 per annum.

119. On 7th May 1965—the day of the 'completion meeting' of the purchase of Mr. Rosen's Town Centre shares—a tripartite agreement was entered into between Third Mile and Major Spence (1) Able (2) and Town Centre (3) for the sale of the issued share capital of Star (a) by Third Mile to Able and (b) by Able on to Town Centre. The two sales were expressed to be conditional one upon the other.

120. It is not clear why Major Spence was made a party to this agreement. He himself does not know why. He was described in the agreement as 'the Vendor' and joined with Third Mile in selling the Star shares to Able despite the

fact that Star was recited as being a wholly-owned subsidiary of Third Mile. He also gave, jointly and severally with Third Mile, certain surtax and estate duty indemnities relating to Star.

121. The tripartite agreement was apparently drafted at short notice by Muscatt Nelson & Co. (of which firm Mr. Shine was by this time a partner) on instructions given by Mr. Salmond on behalf of Able (Mr. Shine told us that in May 1965 his firm were appointed solicitors to Able).

122. The sales of the Star shares were recited in the tripartite agreement as being made on the footing of a balance sheet of Star as at the 1st March 1965, a copy of which was stated to be attached. This balance sheet which is set out in Appendix C to this report had been prepared by Marks Bloom & Co., Chartered Accountants on the instructions of Mr. Henry and was signed by Mr. Henry and Mr. Salmond as directors of Star. (The auditors' certificate was apparently added later, since it is dated 17th May 1965). As will be seen from the notes on the balance sheet the South Shields Sports Centre was shown at £395,750, representing the £650,000 Pilcher Hershman valuation of the freehold less the cost which would be incurred if the freehold was acquired under the option in Star's lease. Note 5 refers to Star having a maximum obligation of £128,951 'under agreements the release from which is currently being documented'; this note was apparently included on information supplied by the Star directors and was a reference to the Brunswick agreements relating to bowling equipment (see paragraph 85 above); but so far as we can discover, no release from these agreements had ever been negotiated; indeed on 21st April 1965 Brunswick commenced legal proceedings against South Shields regarding these agreements and on 26th April 1965 South Shields in turn joined Star as a third party to the proceedings.

123. The purchase price which, under the tripartite agreement, Able was to pay Third Mile, was £540,811 13s. 6d. made up as follows:

- (a) £130,811 13s. 6d. in cash;
- (b) £350,000 in 1,400,000 ordinary shares in S. Guiterman & Co. Limited ('Guiterman') at an agreed price of 5s. per share;
- (c) £60,000 in Town Centre shares at the middle market price at the date of actual completion.

It will be seen that the cash element in the purchase price ((a) above) was the exact amount which Third Mile had borrowed from Able a week or so before (see paragraph 117 above). Thus, the purchase of the Star shares by Able did not require Able to pay any cash to Third Mile at all. The cash element merely discharged Third Mile's existing debt.

124. The introduction of the Guiterman shares as part of the purchase price appears to have been a last-minute change of plan (contrast paragraph 114 above). Guiterman was a quoted company which was primarily concerned with the manufacture of toys. It seems that in March 1965 (in circumstances which we have not attempted to investigate) Able had acquired a substantial shareholding in Guiterman and that Mr. Salmond had been appointed to its Board.

125. The purchase price which, under the tripartite agreement, Town Centre was to pay Able was £545,811 13s. 6d. (i.e. an uplift of £5,000 over the price payable by Able to Third Mile) of which £540,811 13s. 6d. was to be 'paid and applied in discharge of the price' payable by Able to Third Mile and the balance was to be paid to Able.

As we have shown in Part I of this report £540,000 of this purchase price was paid to Able at the 'completion meeting' of the 7th May 1965 by means of a Town Centre cheque for £647,000 and the balance of that cheque (£107,000) represented a loan from Town Centre to Able.

We turn now, therefore, to the circumstances in which that loan came to be made.

F. Town Centre's £107,000 loan to Able and the negotiations for the Hartlepool sports centre

126. It will be remembered that the Town Centre board minutes of 7th May 1965 recorded a decision (taken by Mr. Salmond and Mr. Wood as the then directors of Town Centre) that Town Centre should lend Able £107,000 'in accordance with a letter dated the 7th May 1965 from Evan Williams (Holdings) to the secretaries' (minute no. 448: see paragraph 71 (f) above).

We have seen no documentary evidence regarding this loan prior to 7th May 1965 and none of the witnesses who gave oral evidence before us has been able to throw any earlier light upon it.

127. We have seen a copy of a letter dated 7th May 1965 from Able to Town Centre which was presumably the letter referred to in Town Centre minute no. 448. This copy is reproduced in full in Appendix D to this report. Mr. Salmond told us that he signed the original on behalf of Able at the request of Mr. Cradock or of a Mrs. Miller (see paragraphs 258 to 261 below). The letter states, in effect:

- (a) that Able was committed to purchasing the Hartlepool Sports Centre (not to be confused with the sports centre at South Shields) for £540,000;
- (b) that the completion of Able's sale of the Star share capital to Town Centre was conditional upon Able being placed in funds to complete its purchase of the Hartlepool Sports Centre;
- (c) that Star had already lent Able £132,500 for this purpose;
- (d) that the only condition upon which Able would proceed with the sale of the Star share capital to Town Centre was that Town Centre would lend Able a further £107,000.

128. In addition there are unsigned board minutes of a directors' meeting of Able said to have been held on 7th May 1965 which purport to record a decision by Town Centre to place the sum of £107,000 on 'deposit' with Able at 1 per cent above bank rate, repayable at six months' notice.

129. This was in our view a complete facade. There were, it was true, negotiations on foot at this time, for the acquisition of the Hartlepool Sports Centre but by Town Centre and not by Able. (We deal with this in greater detail

in paragraphs 131 to 142 below). The Hartlepool Sports Centre did not exist as such. It was in reality little more than a site, including a greyhound track and a rugby football ground, on which such a centre could be developed. We have no doubt that the immediate purpose of this Town Centre loan was to assist Able to finance the purchase of Mr. Rosen's Town Centre shares: and that at that time there was no serious plan for the purchase of the Hartlepool Sports Centre by Able. The real urgency was to find means of paying Mr. Rosen.

130. Nevertheless, the receipt by Able of this 'deposit' of £107,000 as stated by Mr. Salmond in a written acknowledgment dated 7th May 1965 was 'as security against the acquisition and purchase of Hartlepool Sports Centre all in accordance with our letter to the Secretary of Town Centre Properties Limited dated 7th May 1965.'

On the same day, Mr. Salmond also gave a similar written acknowledgment to Star of the receipt of a 'deposit' from Star of £132,500.

131. It seems that in connection with the tripartite agreement between Third Mile, Able and Town Centre, Mr. Shine, who was then acting on behalf of Able, had suggested that Town Centre ought to be separately represented. As a result the agreement was considered on behalf of Town Centre by a Mr. Gerald Samuels of Samuels & Co. with whom Mr. Shine had previously been in partnership (as Samuels and Shine—see paragraph 84 above).

132. On 10th May 1965 Mr. Salmond, as chairman of Town Centre, sent Mr. Samuels various documents relating to Town Centre's acquisition of the Star share capital and instructed him 'to ensure that our title is in order and that all necessary formalities will be complied with and that our interests are properly and correctly safeguarded.'

133. Four days later, however, Mr. Salmond, again writing as chairman of Town Centre, invited Mr. Samuels to undertake yet a further task, namely to act on behalf of Town Centre 'in respect of a purchase from The London & Dublin Investments & Properties Ltd. of land, etc. at West Hartlepoons, in the sum of £550,000.'

Despite its impressive name, the London & Dublin Investments & Properties Limited ('London & Dublin') turned out to be a dormant private company once owned by Mr. Salmond which, he told us, he had sold to Mr. Cradock for about £200 early in 1965. Mr. Salmond nevertheless remained chairman of London and Dublin.

134. Mr. Samuels has made available to us his files of correspondence relating to these two matters. We are satisfied that he had no reason to think that there was anything particularly unusual about either of them. So far as the tripartite agreement was concerned, his main task was to ensure that it was legally effective. The Hartlepool Sports Centre transaction was presented to him as a perfectly straightforward sale and purchase in which the solicitors acting for London & Dublin (the prospective vendors) were Muscatt Nelson & Co. It was one of Mr. Shine's partners in that firm, Mr. D. A. Nelson, who handled this particular transaction.

135. We have not investigated the Hartlepool transaction in any detail. So far as we can discover, the land forming the site of the proposed Hartlepool Sports Centre was owned by West Hartlepool Greyhound Racing Company Limited ('West Hartlepool') at this time. West Hartlepool have recently informed us, through their solicitors, that they never had any negotiations either with London & Dublin or with Town Centre but that between November 1964 and June 1965 there were negotiations with Ten Pin (Mr. Carter's company), for whom Muscatt, Nelson & Co. acted, for the sale of the entire share capital of West Hartlepool for £65,000; and that although these negotiations reached the stage of the preparation of a formal contract, they were broken off in May 1965 when Ten Pin stated that they were unable to raise the necessary finance. We have not enquired further into these negotiations, of which we were unaware at the time when we questioned Mr. Carter.

136. Despite this, a draft contract for the sale of the Hartlepool Sports Centre by London & Dublin to Town Centre for £550,000 was undoubtedly prepared by Muscatt, Nelson & Co. and was submitted to Mr. Samuels for approval on behalf of Town Centre on 13th May 1965. At least £450,000 of the purchase price was payable in cash, but we do not know how it was to be provided.

137. In the event, the Hartlepool transaction was never completed. By 1st June 1965 Mr. Samuels was being requested, in correspondence nominally written by Mr. Salmond but in fact signed by Mrs. Miller 'to keep the above transaction in abeyance for the time being' . . . 'as we are having certain difficulties concerning the valuation.'

138. The 'difficulties concerning the valuation' related to Mr. Holt of Pilcher Hershman. Having obtained a valuation of the South Shields Sports Centre in the circumstances which we have already described, Mr. Cradock appears to have tried to get Mr. Holt to value the Hartlepool Sports Centre as well. But this attempt ran into difficulties.

139. Apparently on 18th March 1965 Mrs. Miller, who at that time was acting as Mr. Cradock's secretary, had written to Mr. Holt (it is not clear on behalf of whom) asking Pilcher Hershman to value a number of properties including the Hartlepool Sports Centre. Mr. Holt obviously regarded the information which was supplied to him for this purpose as totally inadequate and asked for further details before deciding whether to undertake the valuations. These details were evidently not forthcoming because on 12th April 1965 he wrote to Mrs. Miller at some length. On the subject of the Hartlepool Sports Centre he wrote as follows:

We would not wish to value the Stadium at Hartlepool in view of the scant information:—

- re (1) 'Satisfactory Company' on Lease-back arrangement
(2) Present value of Stadium
(3) Terms of probable lettings of each subsidiary activity.
(4) As you said re: South Shields, our Valuation was not worth anything as such, as we had simply valued on the assumption of certain tenancies being arranged. This is the case in the Hartlepool Valuation also.

In his letter, Mr. Holt made it clear that he was not prepared to undertake a valuation of the Hartlepool Sports Centre at all; and, in subsequent correspondence, Mrs. Miller informed him that 'we have had to make other arrangements'. Mr. Holt told her that the remarks about South Shields referred to in (4) above had been made to him by Mr. Cradock.

140. We have said enough about the Hartlepool transaction to show the marked similarity between it and the actual acquisition of the South Shields Sports Centre. In each case, the property was to be purchased from its then owners by a small company under the control of Mr. Cradock or Mr. Robinson or their nominees. In each case, the ultimate purchaser was to be Town Centre.

141. We are prepared to assume that initially there may have been some idea that Town Centre should purchase the Hartlepool Sports Centre. It seems reasonable to assume that the project was abandoned in part at least because of the criticism which Town Centre's acquisition of Star had attracted and because the Stock Exchange had suspended dealings in Town Centre shares. In any event, Town Centre had no money available for this purpose.

142. What seems quite clear, on the evidence we have seen, is that Able was never the intended purchaser; and that Town Centre's £107,000 'deposit' with Able was merely a device to help the latter to pay for Mr. Rosen's Town Centre shares.

PART III

Town Centre and Star from 7th May 1965 Onwards

A. 7th May 1965 to 20th August 1965

143. We now turn to the history of Town Centre and Star from and after the 'completion meeting' of 7th May 1965.

The Directors of Town Centre, Star and Able at that date were as follows:

- (a) TOWN CENTRE: Mr. Salmond (*Chairman*)
Mr. Wood

(It will be remembered that Mr. Wood had been a last-minute substitute for Mr. Henry who was not acceptable to the Stock Exchange)

- (b) STAR: Mr. Salmond (*Chairman*)
Mr. Henry

- (c) ABLE: Mr. Salmond (*Chairman*)
Mr. Winter

In addition, Mr. Robinson was 'financial consultant' to Third Mile, Able and Town Centre and Mrs. Miller was 'secretary to the directors' of Town Centre, Star and Able.

144. The first and most urgent step was, of course, to convene an extraordinary general meeting of Town Centre to consider resolutions (i) to approve the conditional contracts for the sale of the various Town Centre Group properties to Linbourne and (ii) to approve the payment of the agreed compensation for loss of office to the three former Town Centre directors. For this purpose and also because by purchasing the Star shares Town Centre had acquired a new subsidiary, it was necessary to prepare an explanatory circular for the Town Centre shareholders and to clear it with the Stock Exchange.

145. This created immediate difficulties. Not only had Town Centre a new board of directors (Salmond and Wood): it also had new solicitors (Thornton Lynne & Lawson in place of Walter Burgis & Co.) and new property managers (Donald Cottage & Co. in place of Manning & Co.) Thus the only continuity was provided by the secretaries (Stentifords) and the brokers (Stanley & Co.): and neither of them, we are satisfied, knew anything about Star.

146. Notwithstanding this, on 10th May 1965 the new Town Centre board instructed Thornton Lynne & Lawson to prepare a suitable circular for submission to the Stock Exchange without delay and to deal with the completion of the purchase of the Star share capital. Not surprisingly Mr. Lawson was in no position to implement these instructions without assistance and on 12th May 1965 he wrote to Mr. Robinson, care of Able, stressing the urgency of the matter and asking, among other things, for a meeting to discuss the Star acquisition 'if indeed you wish me to act in connection with its completion'. (It will be remembered that Mr. Gerald Samuels had already been instructed by Mr. Salmond to deal with this—see paragraph 132 above).

147. Stentifords were also instructed to assist in the preparation of the circular and they in turn enlisted the help of Mr. Howard of Stanley & Co., as Town Centre's brokers. Stentifords and Mr. Howard were fully alive to the importance of complying with the Stock Exchange requirements without delay and we are satisfied that they did their best, with Mr. Lawson, to prepare a suitable circular, but none of them had sufficient information regarding Star and neither Mr. Salmond nor Mr. Wood was in a position to assist them. Mr. Robinson appears to have been too preoccupied with other problems to give the matter any attention. Various draft circulars were prepared in the course of May 1965; not surprisingly, none of them was acceptable to the Stock Exchange who kept pressing for more detailed and informative disclosure.

148. On 19th May 1965 Mr. Robinson, writing from Paris, resigned his position as financial consultant to Town Centre stating that 'I find that I may be unable to give the attention to the company that I had originally intended, due to other commitments'.

149. On 24th May 1965, Mr. Lee of Tringhams wrote on behalf of the Rosen Trustees to Mr. Lawson pointing out that the £15,500 fourteen day loan which the Rosen Trustees had made to Able on 7th May 1965 (see paragraph 74 (d) above) was overdue and asking for immediate repayment. On the following day, Mr. Lawson wrote to Mr. Robinson in Geneva enclosing a copy of Mr. Lee's letter and asking for instructions.

150. On 26th May 1965 Stentifords, who by this time were thoroughly dissatisfied with the way in which the affairs of Town Centre and its subsidiaries were being conducted, resigned as secretaries to the Town Centre Group.

151. On 27th May 1965 Mr. Salmond, on behalf of Able, wrote to the Rosen Trustees asking for further time in which to repay the £15,500 loan.

152. On 28th May 1965 Walter Burgis & Co. wrote to Town Centre on behalf of Mr. Stimson and Sir Howard Roberts, as minority shareholders in Town Centre, complaining that no public announcement had yet been made regarding the promised offer for the minority shares.

153. On 31st May 1965 the Stock Exchange, with whom Mr. Howard had maintained close contact, suspended dealings in Town Centre's shares. On the same day the Rosen Trustees refused Able's request for further time and threatened to enforce their security for the £15,500 loan. On 10th June 1965 the Rosen Trustees issued a writ against Able for repayment of the loan and Stanley & Co. formally resigned as brokers to Town Centre.

154. About this time, the three former Town Centre directors consulted counsel, at their own expense, to ascertain whether or not they could enforce against Able the latter's undertaking to make the promised offer for the minority shares. They were advised, in effect, that the undertaking was not enforceable but on counsel's advice Walter Burgis & Co. wrote a strong letter of complaint to Mr. Salmond threatening to take unilateral action if steps were not taken immediately to make full disclosure of the position and to apply for removal of the suspension of dealings.

155. On 16th June 1965 Mr. Wood resigned and was replaced as Mr. Salmond's co-director on the board of Town Centre by a Mr. R. C. Watts (Lord Colwyn, who had been appointed a director of Town Centre on 20th May 1965, also resigned on 16th June 1965).

156. On 22nd June 1965 Mr. Lee notified Mr. Lawson that the Rosen Trustees had obtained judgment against Able and had instructed him to present a petition for the compulsory winding up of Able. Mr. Lawson referred this letter to Mr. Salmond, as a director of Able, stating that Mr. Robinson had informed him (Lawson) some weeks before that he (Robinson) was arranging to deal with the matter without delay.

157. On 23rd June 1965 Mr. Salmond wrote to Mr. Lawson that 'in view of the vast amount of work which the Stock Exchange has requested from us' it had been decided to complete the various conditional sales to Linbourne without an extraordinary general meeting of Town Centre and he asked Mr. Lawson to have the necessary documents available for completion on the following day.

158. On 24th June 1965 Mr. Lee told Mr. Lawson that he (Lee) had been instructed to complete the sales of the various properties to Linbourne, such completions to take effect as at that date; that the proceeds of such sales were to be paid to the Rosen Trustees in discharge of the latter's loan to Town Centre of £173,250 plus interest; that in addition Town Centre and its subsidiaries were to sell to Mr. Rosen (or to companies controlled by him) (i) 56 Old Compton Street, W1 for £40,000 (ii) 2 Bouchier Street, W1 for £26,000 and (iii) 41 Eton Avenue, NW3 for £62,000; that of the total purchase price of £128,000 for these three properties, £112,350 was to be paid to the Rosen Trustees in part payment of the principal and interest due to them under Town Centre's £473,750 mortgage; and that of the balance of £15,650, £15,647 3s. 4d. was to be paid to the Rosen Trustees in settlement of their judgment debt (and costs) against Able in respect of the £15,500 loan.

159. On 28th June 1965 Mr. Lawson sent Mr. Salmond, as director of Town Centre, a copy of Mr. Lee's letter of 24th June 1965. Mr. Lawson pointed out that his instructions were to proceed with the sales to Linbourne notwithstanding that the sales had not been approved by a general meeting of Town Centre and he queried the propriety of completing these sales and also the three further sales mentioned by Mr. Lee. He said that, legal considerations apart, he assumed that the sales were being made on the advice of Donald Cottage & Co.

160. This was far from being the case. In a letter to Mr. Lawson dated 30th June 1965 Mr. Donald Cottage made it clear that he did not recommend the three additional sales which in his opinion 'would denude the portfolio of what glamour there is'.

161. Mr. Cottage reinforced this advice in a letter to Mr. Salmond dated 7th July 1965 in which he stated that 'I strongly advise that these properties should not be sold'. Mr. Cottage was supported by Mr. Lawson, who, in a letter to Mr. Salmond of the same date, pointed out that the sales of the three addi-

tional properties were at prices below those at which the properties had been valued by Donald Cottage & Co. in December 1964.

162. Notwithstanding this advice, the sales to Linbourne and one of the additional sales (2 Bouchier Street, W1) were completed. Except that the sale of 2 Bouchier Street was at a figure of £2,000 below the Donald Cottage valuation of December 1964, these sales were effected at or about the figures shown in that valuation; and by 21st July 1965 Mr. Lee was able to report to the Rosen Trustees that the £15,500 loan to Able (plus interest and legal costs) and the £173,250 loan to Town Centre (plus interest) had both been repaid.

Approximately £15,000 of Able's £15,500 loan was repaid in this way by Town Centre.

163. The truth of the matter is, of course, that by this time Town Centre and Able were acutely short of money; and the only ready means of raising money was by the sale of properties belonging to the Town Centre Group.

164. On 4th August 1965 Walter Burgis & Co., writing on behalf of the three former Town Centre directors, informed Town Centre that they were prepared to delay applying to the Board of Trade for the appointment of an inspector until it was known whether the promised offer to acquire the Town Centre minority shares would in fact be made; but that if the offer was not forthcoming they would apply to the Board of Trade.

B. The cancellation of the tripartite agreement

165. It will be remembered that part of the purchase price which Third Mile was to receive from Able for the sale of the Star share capital consisted of 1,400,000 shares in Guiterman and £60,000 in Town Centre shares at the mid-market price on the date of 'actual completion'. Although the mid-market price of Town Centre shares on 7th May 1965 (the date of the tripartite agreement) was about 15s. per share, the price which was apparently finally agreed was 17s. 6d. per share so that Third Mile became entitled to 68,571 Town Centre shares.

166. Third Mile, as a quoted company, had, under Stock Exchange regulations, to notify its shareholders of these substantial acquisitions and it did so in a circular dated 14th May 1965. The circular stated that the acquisitions were 'subject to the passing of the Resolution mentioned below'. This was a resolution to be proposed at an extraordinary general meeting of Third Mile convened for 31st May 1965 under which the board of Third Mile was to be empowered to adopt a new investment policy of investing in larger holdings of quoted securities in a smaller number of companies than hitherto.

167. This circular attracted considerable publicity. For some time there had been a good deal of press speculation as to what was happening in the Sempah group of companies and as to Mr. Robinson's connection with them. Mr. Robinson was, of course, a director of Lubok which controlled Third Mile, as well as being Third Mile's 'financial consultant'.

168. The Third Mile extraordinary general meeting of 31st May 1965 seems to have been a lively affair during the course of which it became known that the Stock Exchange had suspended dealings in Town Centre shares. The resolution above referred to was not passed and the meeting was adjourned until 29th June 1965 to await further information regarding the affairs of Town Centre.

We should mention here that there is nothing in the tripartite agreement to suggest that it was in any way conditional upon the passing of a resolution by the shareholders of Third Mile or by anyone else. Moreover by this time the sale on from Able to Town Centre pursuant to the tripartite agreement had already been completed.

169. On 24th June 1965 the Third Mile board notified their shareholders that the necessary information regarding Town Centre was not yet available and that at the adjourned meeting they would propose a further adjournment to an unspecified date.

170. The adverse publicity which was by now being directed to the affairs of Third Mile, Town Centre, Star and Able began to have considerable effect and it seems to have become evident to those who controlled these companies that the tripartite agreement would have to be cancelled. Eventually this was done by means of a supplemental agreement dated 20th August 1965 which, after reciting (in our view incorrectly) that the tripartite agreement was conditional upon the passing by the Third Mile shareholders of the resolution referred to in paragraph 166 above and that it was not now expected that the resolution would be passed, provided, *inter alia*:

- (a) that the tripartite agreement was thereby cancelled;
- (b) that Able and Town Centre would forthwith repay to Star 'any moneys borrowed' at any time by either of them from Star 'and any moneys borrowed by any other person firm or corporation since 7th May 1965 and outstanding at the date thereof'; and
- (c) that Third Mile would repay to Able 'the sum of £130,811 13s. 6d. paid to it by Able in contemplation of' the Tripartite Agreement.

Nothing was said in the supplemental agreement about how Town Centre was to be repaid.

171. On the day on which the Supplemental Agreement was signed, Mr. Salmond, as chairman of Able, informed Mr. Lawson that the Tripartite Agreement had been cancelled and added:

Town Centre have taken today 1,000,000 S. Guiterman & Co. shares from Messrs. Third Mile Investment Company at 3/- per unit and the balance of monies will have to be accounted to Town Centre from Able Securities Ltd.

172. These Guiterman shares were never in fact transferred to Town Centre and are in any event likely to be worthless. To date Town Centre has not recovered anything from Able in respect of the £540,000 paid for the Star shares or in respect of the £107,000 which it had 'deposited' with Able on 7th May 1965 or in respect of the sum of approximately £15,000 which it had in effect lent to Able in July 1965 (see paragraph 162 above).

173. One result of the supplemental agreement was, of course, to re-vest the ownership of Star in Third Mile, although the Star shares (which were still registered in the names of Mr. Kraft and his nominees) were not finally transferred into Third Mile's name until 20th October 1965.

174. Shortly after the signing of the supplemental agreement, Mr. Salmond and Mr. Henry resigned from the board of Star in favour of Major Spence and Mr. Sassoon, both of whom were directors of Third Mile.

C. 21st August 1965 onwards

175. By mid-August 1965 the affairs of Town Centre and Able had virtually come to a standstill and Star was in increasing difficulty. Mr. Robinson and Mr. Cradock had left the country some months previously, and it was Mr. Salmond and Mrs. Miller who had to face the growing criticism of Town Centre in the press and elsewhere. Mr. Salmond told us that his main efforts were directed to trying to raise money to enable Town Centre and Able to meet their commitments.

176. Much the same position obtained in Star although, with the rescission of the tripartite agreement, the problems of Star once more reverted to Third Mile. Mr. Salmond told us that the last time he heard from Mr. Robinson was in the middle of September 1965 when Mr. Robinson telephoned him and asked him not to sell Able's Town Centre shares because he (Robinson) had a buyer for them: and that Mr. Robinson asked him to meet him on the continent. Mr. Salmond refused, apparently because Mr. Robinson would not send him the fare.

177. Towards the end of September 1965 Mr. Salmond, under pressure, decided to ask the Board of Trade to appoint an inspector. As he himself put it to us, he felt that he had been left 'to carry the baby' and that he was out of his depth. There was, of course, one particular cloud on the Town Centre horizon in that the £473,750 mortgage held by the Rosen Trustees would become due for repayment on 7th December 1965: Town Centre had no funds with which to repay the principal on this mortgage: moreover, if it was not repaid by the due date the rate of interest would be effectively increased from 7 per cent to 12 per cent per annum.

178. Mr. Salmond was not the only person who was worried. So was Mr. Rosen, to whom Mr. Salmond had turned for financial help for Town Centre, and it was at Mr. Rosen's insistence (as a term of giving any such help) that on 12th October 1965 Mr. Percy Phillips, FACC, FCS, was appointed a director of Town Centre in place of Mr. Watts (who resigned) and chairman of Town Centre *vice* Mr. Salmond. By means of his chairman's casting vote Mr. Phillips would thus be in a position to control the Town Centre board.

179. With Mr. Phillips in effective control the Rosen Trustees agreed on 12th October 1965 to lend Town Centre up to £30,000 to enable it to meet pressing commitments for rent and other outgoings. This further loan (of which £23,700 was eventually taken up) carried interest at 7 per cent and was secured

by a first charge on one of Town Centre's leasehold properties and was repayable with the existing mortgage to the Rosen Trustees, on 7th December 1965. It was not intended to do more than keep pressing creditors at bay so as to give Mr. Phillips a breathing space in which to take stock of the Town Centre position.

180. Town Centre's annual general meeting was becoming overdue: but, not surprisingly, the auditors were in no position to produce the necessary accounts. Notwithstanding this, Mr. Phillips very properly arranged for an annual general meeting to be convened for 26th November 1965 in order that the position, so far as he knew it, could be explained to the shareholders.

181. The convening of this meeting led to disputes as to the beneficial ownership of a controlling block of 825,000 Town Centre shares which were registered in the names of bank nominees holding for Singer & Friedlander. These shares formed part of the 1,100,000 shares which Able had bought from Mr. Rosen, and we deal with their subsequent history in greater detail in Part IV of this report. For present purposes, it is sufficient to say that two parties claimed to be entitled to exercise the voting rights attached to these shares, namely

(i) a Lichtenstein company called Eastern Holdings Establishment, Vaduz ("Eastern Holdings") and (ii) the liquidator of Ahle (Able had been compulsorily wound up on 18th October 1965 on a creditor's petition presented by Bishops-gate and Mr. Weiss had been appointed liquidator). In addition, Sempah claimed an interest in some of these shares.

182. Shortly before the Town Centre annual general meeting, Eastern Holdings, through their solicitors, Theodore Goddard & Co, proposed to Mr. Phillips that Mr. Henry should be appointed to the Town Centre board to look after their interests and stated that they proposed, if necessary, to require Singer & Friedlander to procure the votes attached to the 825,000 shares to be used to secure Mr. Henry's appointment. Mr. Phillips threatened to resign if this appointment was made and in the event nothing came of it.

183. At the annual general meeting, Mr. Phillips outlined the Town Centre position and intimated that he would welcome additions to the board. No appointments were made at the meeting, which was adjourned until the accounts were ready, but subsequently three further directors were appointed, namely (i) Mr. J. F. Cox, CA at the instigation of Sempah, (ii) Mr. W. V. J. Memery, of David Freeman & Co., Solicitors, at the instigation of Mr. Weiss, and (iii) Mr. Shine, at the instigation of Eastern Holdings. Mr. Cox was appointed on 13th December 1965; Mr. Memery and Mr. Shine were appointed on 20th December 1965.

184. Meanwhile, the Rosen Trustees' mortgages had become due for repayment and on 20th December 1965 the Rosen Trustees appointed a receiver of the various properties charged to secure the mortgages. The validity of this appointment was challenged by the Town Centre board who were engaged in seeking legal advice as to the possibility of attacking the mortgages as having been made in order to enable Town Centre indirectly to assist in financing the purchase by Able of Mr. Rosen's Town Centre shares.

185. It is unnecessary for us in this report to deal in detail with the negotiations which ensued between Mr. Phillips as chairman of Town Centre on the one hand and Mr. Rosen and the Rosen Trustees on the other hand. These negotiations have led to compromise proposals which are to be put before the annual general meeting of Town Centre which has been convened for 21st June 1966. The proposals are summarised in the chairman's statement which accompanies Town Centre's 1965 accounts, as follows:

An opinion has been obtained from leading Counsel as to the validity of the Rosen Mortgage and generally as to any remedies open to the Company. His advice is to the effect that on the evidence so far available the Company would have great difficulty in resisting claims on the loans made by or the mortgages given to the Rosen Trustees. Counsel has also advised that the Company may well have claims in damages against certain individuals but that, if resisted, these must involve heavy and protracted litigation extending over two years or more and no one can predict the outcome with certainty. In these circumstances Counsel is of the opinion that the Company would be justified in agreeing a compromise with the Trustees if this amounted to a substantial mitigation of their claim.

As Chairman I have had lengthy discussions with the Trustees of the Rosen Settlement and with Mr. Rosen with a view to arriving at an acceptable compromise. Whilst Mr. Rosen states that all his transactions were entered into with good faith, nevertheless in the spirit of compromise he and the Trustees would agree that of the first year's interest due to the Trustees amounting to some £58,000, the Trustees would forgo the sum of £50,000. They have also agreed that provided a contract for the sale of the properties has been entered into by the 21st June, the interest running after the first year will be at the rate of 7% in place of 12%. They would also agree that to assist in obtaining finance to complete the pending developments, as soon as contracts have been exchanged they would release one or more properties for this purpose. The Company in turn would agree to withdraw any claims it may have against Mr. Rosen and the Rosen Trustees.

In considering whether these concessions are 'substantial' in the context of Counsel's advice it has to be borne in mind that the cost of unsuccessful litigation would include the forfeiture of the £50,000 mentioned above and also the extra 5% interest for 2 years or more as well as the actual costs of the action. All these items would come to well over £100,000 and this has to be weighed against the prospects of succeeding in the action and eventually obtaining damages or other redress of an amount which might bear some relation to the £600,000 odd which has been lost.

This is a matter for shareholders to decide, but meanwhile, in order to avoid a forced sale of the properties by the Trustees as Mortgagees, your Board have agreed conditionally to accept the concessions offered by the Trustees on the clear understanding that this is subject to the approval of shareholders at the forthcoming meeting. Should shareholders not consent, the rights of the parties will not be prejudiced.

186. On 14th March 1966, Star was placed in creditor's voluntary liquidation because it was losing money and could not pay the rent due under its lease from Avenue. Mr. Weiss and Mr. R. Lofthouse, FCA, (a partner in Graham Proom & Smith, Chartered Accountants, of Newcastle upon Tyne) were appointed joint liquidators of Star. It seems unlikely that there will be any substantial sums available for unsecured creditors in the liquidation.

187. Also in March 1966 a receiver and manager was appointed of Guiterman and our latest information is that Guiterman will probably be put into liquidation. But it seems most unlikely that there will be anything available for the Guiterman shareholders.

PART IV

The Fate of Mr. Rosen's Town Centre Shares

188. Under the Rosen/Able agreement of 18th March 1965 Mr. Rosen had contracted to sell 1,100,000 Town Centre shares to Able. The position as at 7th May 1965, according to Town Centre's share register, was that 1,018,455 shares were registered in the name of Mr. Rosen himself, 52,100 shares were registered in the name of Mrs. Rosen and a further 22,195 shares were registered in Mrs. Rosen's name on behalf of the Rosen Trustees. This left a short-fall of 7,250 shares which Mr. Rosen seems to have made up by purchases in the market.

189. The original idea (as set out in a letter from Mr. Lawson to Mr. Robinson dated 4th May 1965) seems to have been that the 1,100,000 shares should be transferred into the following names:

	<i>Shares</i>
Sinjul Nominees Ltd.	300,000
Barclays Bank Nominees (Branches) Ltd.	100,000
Branch Nominees Limited	200,000
Birchin Lane Nominees Ltd.	300,000
Able	200,000
	<hr/> 1,100,000 <hr/>

Sinjul Nominees Limited was Singer and Friedlander's nominee company.

190. These plans appear to have been changed. Although we have no reason to think that at the 'completion meeting' of 7th May 1965 appropriate transfers for the full 1,100,000 shares were not handed over, they do not appear to have been completed, partly no doubt for stamp duty reasons and partly, we suspect, because Mr. Robinson had not finally decided to whom they should be transferred.

191. On 28th May 1965 Mrs. Miller, writing as secretary to the Town Centre directors, asked Mr. Lee of Tringhams for transfers for 500,000 Town Centre shares to be made out as follows:

130,517 shares to Sempah
96,000 shares to N. C. Lombard Street Nominees Ltd.
273,483 shares to Able

These were the 500,000 shares which were previously intended to have been transferred to Branch Nominees Limited (200,000 shares) and Birchin Lane Nominees Limited (300,000 shares).

192. The whole question of registering transfers of the 1,100,000 shares seems to have been dealt with in a very haphazard way. So far as we have been able to ascertain, Town Centre's share register still shows Mr. and Mrs. Rosen

and Mrs. Rosen (for the Rosen Trustees) as the registered holders of 226,517 shares, 10,038 shares and 22,195 shares respectively.

193. We have not thought it worth while in the time available to attempt to trace the destination of the whole of the 1,100,000 shares. We have, however, investigated in some detail the fate of 825,000 of these shares which were eventually deposited by Able with Singer & Friedlander as security for loans to Able in the circumstances summarised below.

194. As mentioned earlier in this report, on 28th April 1965 Able had borrowed £200,000 from Singer & Friedlander on a fourteen-day loan on the understanding that Able would deposit 300,000 Town Centre shares as security: and shortly after the 'completion meeting' these shares were duly transferred into the name of Sinjul Nominees Limited. The actual amount lent to Able was £198,600, representing the £200,000 less a deduction for interest.

195. Dr. H. Hock of Singer & Friedlander told us that this loan was made by his firm at the request of Swiss bankers, Landau & Kimche of Zurich, who stated that Able were clients of theirs and that they (Landau & Kimche) would guarantee the loan and would for this purpose deposit \$560,000 as collateral with Singer & Friedlander's bankers in New York. Dr. Hock stated that he looked to this collateral, rather than to the 300,000 Town Centre shares, as the real security for the loan.

196. On 30th April 1965 Mrs. Miller, writing on behalf of Able, told Dr. Hock that completion (i.e. of Able's purchase of Mr. Rosen's Town Centre shares) had been postponed until 5th May 1965. On 2nd June 1965 Landau & Kimche sent Singer & Friedlander a cheque for £5,000 as further security for the loan to Able and on 4th June 1965 Singer & Friedlander agreed to the date for repayment of the loan being extended for three months from 28th April i.e. until 28th July 1965.

197. On 9th July 1965 Mr. Salmond, on behalf of Able, wrote to Dr. Hock urgently requesting a further loan of £7,000 and offered to deposit additional Town Centre shares as security. What is surprising, however, is the size of the additional security which was eventually offered to Singer & Friedlander for this further loan. Not only were Landau & Kimsche prepared to deposit an additional \$20,000 as collateral with Singer & Friedlander's New York bankers: in addition, Mr. Salmond offered to transfer a further 525,000 Town Centre shares to Sinjul Nominees Limited as direct security for the loan.

198. Even allowing for the fact that by this time the Stock Exchange had suspended dealings in Town Centre shares and that Able was short of money, the pledging of a further 525,000 shares as security for this relatively small further loan seemed to us to have been out of all proportion: and we asked Mr. Salmond about it.

199. His explanation was that he was finding it increasingly difficult to get any help from Mr. Robinson (who was no longer in this country) and that in view of Able's financial difficulties he did not think it unreasonable to offer this further security.

200. In the light of subsequent events, we are quite unable to accept this explanation. We are satisfied that no pressure was put on Able by Singer & Friedlander to give this security (Dr. Hock made it clear to us that he regarded the dollar collateral in New York as the real cover). We think it much more probable that the real object was to ensure that a controlling shareholding in Town Centre (i.e. 825,000 shares in all) was charged to Singer & Friedlander so that if (as eventually happened) Landau & Kimche were called upon to meet their guarantee of Able's indebtedness they, in turn (on behalf of their client whose name they had not disclosed) would be entitled by subrogation to enforce Singer & Friedlander's charge on the 825,000 Town Centre shares.

In other words, we believe that this was an indirect attempt by someone (probably Mr. Cradock) to gain control of Town Centre for his own ends.

201. On 14th July 1965, on instructions from Mr. Cradock, Mr. Salmond and Mrs. Miller flew to Zurich where they met Mr. Cradock and Mr. Henderson at the Dolder Hotel. The outcome of this meeting was that Mr. Salmond, on behalf of Able, gave Mr. Henderson an option in writing for £1 to purchase 825,000 Town Centre shares for a total of £227,500 exercisable until 30th September 1965. The option further provided that if it was exercised Mr. Henderson was to deliver a banker's draft for the purchase price to Singer & Friedlander against delivery of the 825,000 shares.

202. There exists a contemporaneous note of this meeting typed by Mrs. Miller and signed by Mr. Henderson. This shows that Mr. Salmond was asking Mr. Henderson to assist him in negotiating a sale of Town Centre shares and that Mr. Henderson agreed 'to discuss matters with his clients' provided that he was given an option on the shares to cover the position in the meantime. Mr. Henderson's 'clients' were not named.

203. Singer & Friedlander's loans to Able were due for repayment on 28th July 1965 but on 29th July 1965 Singer & Friedlander accepted instructions from Landau & Kimche to extend the repayment date to 18th August 1965 by which time the loans, plus interest, would amount to just under £217,000. Singer & Friedlander had dollar collateral in New York to approximately the same amount.

204. On 12th August 1965 Mr. Salmond and Mrs. Miller paid another visit to Zurich where they again met Mr. Cradock. He introduced Mr. Salmond to Landau & Kimche. The outcome of this meeting was an agreement dated 12th August 1965 between Able and Eastern Holdings under which Able agreed to sell 825,000 Town Centre shares to Eastern Holdings for £217,000 the shares to be delivered by Able to Singer & Friedlander in London 'for account of Bank Landau & Kimche Ltd., Zurich in favour of Eastern Holdings'. At the same time, Eastern Holdings granted Able an option to buy back the shares on or before 17th September 1965 for £222,000. The transaction was stated to be subject to approval of the Bank of England.

Landau & Kimche notified Singer & Friedlander of this agreement on the following day.

205. Dr. Hock told us that this was the first he had heard of Eastern Holdings and we ourselves have found no earlier reference to it. Eastern Holdings is a Lichtenstein company incorporated in June 1964 of which the sole director appears to be a Dr. Peter Ritter. Dr. Ritter has stated that the beneficial owner of Eastern Holdings is a Mr. Waldemar Ahouchar with an address at Beyrouth in the Lebanon. Dr. Ritter has also stated that Eastern Holdings had guaranteed Landau & Kimche in respect of both the Ahle loans and that the dollar collateral was 'put at the disposal of this company by its financial backer'. The name of this 'financial backer' has not been disclosed, but we should be very surprised if it turns out to be Mr. Abouchar. What is more significant, perhaps, is Dr. Ritter's disclosure that Eastern Holdings' guarantees were given as a result of arrangements made with Mr. Ahouchar by Mr. Cradock.

206. Following the Ahle/Eastern Holdings agreement of 12th August 1965, application was made to the Bank of England for the necessary exchange control permission for the sale of the 825,000 shares. Not surprisingly the Bank of England asked for fuller details and in particular as to why Eastern Holdings wished to purchase the shares. The reply was that 'they believe it to be an attractive investment'. Bank of England permission was not forthcoming.

207. On 23rd August 1965 Mr. Salmond, on behalf of Ahle, wrote to Singer & Friedlander that 'negotiations have been arranged through Eastern Holdings Establishment to discharge the indebtedness to you in order to avoid you exercising any rights against the collateral or actions against our company'.

208. By this time, Singer & Friedlander were thoroughly dissatisfied with the whole position. Dr. Hock told us that they had only agreed to make a loan to Ahle in the first place because the request for it had come to them from Landau & Kimche, whom they knew. Singer & Friedlander therefore proceeded early in September 1965 to enforce their collateral security in New York which enabled them to recover virtually the whole of what was due to them from Ahle. They informed Landau & Kimche and Ahle of this on 10th and 13th September 1965 and asked for disposal instructions regarding the 825,000 shares; they stated that they would not release the shares to Ahle without Landau & Kimche's permission but they would deliver them to any United Kingdom resident whom Landau & Kimche might nominate.

209. On 17th September 1965 Sempah informed Singer & Friedlander that they had reason to believe that the \$560,000 collateral for the original Ahle loan might have been money belonging to Sempah.

210. Singer & Friedlander received no instructions regarding the disposal of the 825,000 shares until 4th October 1965 when Landau & Kimche wrote that any interest they (Landau & Kimche) had in the shares 'is now released by us to Eastern (Holdings) . . . you may therefore accept their direct instructions concerning this situation'.

211. At the same time Eastern Holdings instructed Theodore Goddard & Co. to protect their interests having apparently been introduced to them by Mr. Gerald Henry. Subsequently, when the board of Town Centre was re-

organized, Theodore Goddard & Co. were instrumental in obtaining the appointment of Mr. Shine to the board.

212. Failure to obtain Bank of England permission to the sale of the 825,000 shares to Eastern Holdings resulted in attempts by Mr. Salmond to find a purchaser who was a United Kingdom resident. In these attempts Mr. Salmond appears to have had the assistance of Mr. Christopher Cradock, Mr. F. R. Cradock's son. Various meetings for this purpose seem to have taken place in the latter part of September 1965. But it was, we think, an act of unconscious irony on Mr. Salmond's part that he should have included Mr. Rosen among the people whom he approached as prospective purchasers.

213. Nothing came of any of these approaches: and the present position is, we understand, that Singer & Friedlander have undertaken not to allow their bank nominees to part with possession of the 825,000 shares pending further investigation into their ownership.

214. We have kept in close touch on this aspect with the reconstituted board of Sempah. We think it more than probable that the dollar collateral which was provided for the Able loans represented, or was derived from, funds in Switzerland belonging to Sempah which Mr. Robinson had been intructed by the then Sempah board to remit to this country. This is a matter which is however outside the scope of our enquiry and is in any event being actively investigated by the present Sempah board.

The Legal Implications and the Responsibility

A. The purchase of Mr. Rosen's shares

215. The story which has emerged from our investigation is a complex one and clearly forms part of a much wider scheme of activities organised by Mr. Robinson and Mr. Cradock. We must now attempt to evaluate the facts and to assess the responsibility for what occurred. In the main, we propose to concentrate on Town Centre, because the focal point of our investigation has been throughout Able's purchase of Mr. Rosen's Town Centre shares. As we have shown, this purchase was financed (except for some £200,000 which Able borrowed from Singer and Friedlander) exclusively from moneys which came directly or indirectly from Town Centre itself, partly in the guise of the purchase price for the Star shares and partly by means of Town Centre's £107,000 'deposit' with Able.

This leads us at once to consider possible infringements of section 54 of the Companies Act, 1948, which prohibits a company from giving, directly or indirectly, financial assistance in connection with a purchase of its own shares.

B. Section 54

216. We do not propose, in this report, to discuss the legal implications of section 54 in any great detail. In the first place, we regard the primary purpose of our investigation to be to discover facts rather than to express what can at best only be opinions on the law. Secondly, the present Town Centre board have obtained their own legal advice on this aspect from leading counsel.

217. We would, however, make one general observation on the ambit of section 54. As we understand it, if a purchaser ('A') of shares in a company ('TCP') owns assets which, contemporaneously with its purchase of TCP shares, A sells to TCP for cash, with the avowed object of using the cash to finance A's purchase of the TCP shares, that fact alone does not necessarily mean that section 54 has been infringed. The question is whether or not A's sale of assets to TCP can be justified as being in the interests of TCP as a separate legal entity.

Thus, in the present case, a crucial aspect of the matter is whether Town Centre's purchase of the Star shares was justified in the interests of Town Centre. The answer to this question mainly concerns those who committed Town Centre to this purchase. We think it right to state our firm conclusion that to anyone who knew the facts regarding Star and the South Shields Sports Centre, the purchase by Town Centre of the Star shares for over £540,000 could not conceivably have been justified as being in Town Centre's interests.

218. A further complication arises where, as here, a large part of the cash which A obtains from TCP by means of the sale of A's assets to TCP is indirectly provided, by way of loan, by the very person ('R') from whom A is purchasing the TCP shares.

Here again, if the purchase of A's assets by TCP can be legally justified as being in TCP's interests, it does not seem to us, in principle, that the fact that R is the person who lends the money to TCP necessarily involves a breach of section 54 merely because he is also the vendor of the TCP shares to A.

The position might well be different however if it could be shown that TCP's purchase of A's assets was a mere sham *and that R knew this to be so*. In that case, R's loan to TCP might well be illegal and thus irrecoverable.

219. Finally it must be remembered that although in the above examples we have, for convenience, used the symbols 'A', 'TCP' and 'R', in the present case the loans to Town Centre were, as a matter of law, made not by Mr. Rosen but by the Rosen Trustees.

220. We now consider individual responsibility for what took place. But we wish to make it clear that in our selection of individuals for comment, the inclusion of some in our list and the omission of others must not necessarily be taken as an indication of our views as to their culpability or innocence.

Our starting point must be the three directors who constituted the old board of Town Centre during the period in which Mr. Rosen was the controlling shareholder.

C. The old board of Town Centre

221. We do not consider that Sir Howard Roberts, Mr. Stimson or Mr. Howard can fairly be criticised for their conduct during the period in which they constituted the Town Centre board. From October 1964 onwards, their position became increasingly difficult. They knew that Mr. Rosen was determined to sell out; and they were well aware not only that he was the controlling shareholder but also that he was the man with the property 'expertise'. They were advised by counsel (in our view rightly) that there was nothing in law which they could do to prevent such a sale. The most they could hope for was that the sale would include, or would be closely followed by, an offer for the minority shares; and we are satisfied that they did what they could to ensure that such an offer was made. But because they were never put fully in the picture with regard to the progress of Mr. Rosen's negotiations, there was little they could do except to insist (as they did) upon their independence as the board and to decline to be a party, on behalf of Town Centre, to transactions about which they had inadequate information.

222. It might be said of them that after adopting initially an attitude of independence (and even of defiance) they allowed themselves to be jockeyed into a position where, in effect, they 'threw up the sponge' and abandoned the minority shareholders to the mercy of the purchaser of Mr. Rosen's shares. This criticism gains some force from the course of subsequent events, in that the protection which the three directors sought to obtain for the minority shareholders proved in the end to be illusory.

223. Nevertheless we consider that such criticism would be unjustified. None of the three directors took any part in the Cradock/Robinson/Rosen negotiations and they had no reason to anticipate the subsequent course of

events. All they did know was that if control of Town Centre changed hands they were liable, as they had been throughout, to be removed from office by the controlling shareholder; and that if they forced a public dispute the resultant publicity might well harm the very people whom they were concerned to protect. In these circumstances it would, we think, be asking too much of them to insist that they should have remained in office and courted dismissal as the best and only means of protecting Town Centre and its minority shareholders.

224. In considering the position of the three directors we do not differentiate between Sir Howard Roberts and Mr. Stimson on the one hand and Mr. Howard (who was also one of the Rosen Trustees) on the other hand. We are satisfied that Mr. Howard in his capacity as one of the Rosen Trustees relied upon his solicitor co-trustee, Mr. Lee, for legal advice as to the propriety of the part which the Rosen Trustees were being called upon to play. Despite his initial doubts regarding the possible implications of section 54, Mr. Howard was reassured as to the legal position by Mr. Lee: and we think it not unreasonable in the circumstances that he should have accepted Mr. Lee's advice.

We should mention that none of the three directors in fact received any compensation for loss of office.

D. Mr. Rosen

225. Our main criticism of Mr. Rosen is that having successfully launched Town Centre upon the public in 1961 and knowing that he himself was the only person connected with Town Centre who had any expert knowledge of property, he was nevertheless prepared to abandon all responsibility towards the minority shareholders in order to get what was undoubtedly an extremely good price for his controlling shareholding.

226. This is, we recognise, a question of business ethics rather than law. As a matter of law, Mr. Rosen was entirely free to sell his holding to whom, and at whatever price, he wished. We doubt whether it would be practicable, even if it were thought to be desirable, to impose legal restrictions upon the sale of a majority holding. Nevertheless the mere fact that control of a company lies in a single hand does in our view impose very real moral obligations upon the holder: and we do not consider that Mr. Rosen fully recognised or accepted those obligations.

227. The fact that the negotiations for the sale of Mr. Rosen's shares proved in the event to be so protracted and complex is not a matter for which he can, we think, fairly be blamed. The chopping and changing in the details of the proposed arrangements came almost exclusively from the Robinson side. Nevertheless, we cannot help feeling that during the course of these negotiations Mr. Rosen, however favourable his initial opinion of Mr. Cradock may have been, must have had very real doubts by the time completion came as to the quality of the people with whom he was dealing. Despite this, he persisted with the negotiations and his anxiety to conclude the deal is underlined by the various steps which he was ultimately prevailed upon to take to facilitate its completion.

228. Mr. Rosen was, throughout the negotiations, advised by Mr. Lee: and the latter unquestionably had moments of anxiety as to the legal implications of the deal, more particularly when, in the final stages, Mr. Rosen stepped in to provide, through the Rosen Trustees, the necessary short-term finance to replace the hoped-for Lombank loan and to bridge the gap until, in accordance with Stock Exchange requirements, the proposed sales by Town Centre to Linbourne could be submitted for approval by the Town Centre shareholders.

229. That Mr. Rosen and Mr. Lee knew that the loans by the Rosen Trustees were going to be used indirectly to finance the purchase of Mr. Rosen's Town Centre shares we have no doubt. Equally, we are satisfied that they knew that this was going to be done by means of the purchase by Town Centre of assets which the Robinson Group intended to inject into it. What is more difficult to evaluate is whether they knew (and if so in how much detail) that these assets consisted of, or included, the Star shares and, through Star, the much over-valued South Shields Sports Centre. It may be that neither of them knew of Star as such: having regard to Star's somewhat tortuous history that would not be altogether surprising. But we cannot help feeling that they had at least a suspicion that the South Shields Sports Centre was, or might well be, one of the assets which Town Centre was to acquire: and Mr. Rosen undoubtedly knew something about the sports centre because he had earlier been sent a copy of the Pilcher Hershman valuation by Mr. Cradock with a suggestion that he might recommend it to the old Town Centre board for purchase by Town Centre; and we have no doubt that Mr. Rosen was skilled enough to assess that valuation at its true worth.

230. On balance, we incline to the view that Mr. Rosen and Mr. Lee had their suspicions as to the type of asset which Town Centre was to acquire: but that they took the view that the use to which Town Centre, under the new regime, intended to put the loans from the Rosen trustees was no concern of theirs; and that they deliberately refrained from asking questions.

231. We do not know whether Mr. Rosen knew of the proposed £107,000 'deposit' by Town Centre with Able. Presumably Mr. Lee knew of it at least by the time of the 'completion meeting', because he appears largely to have conducted the sequence of events at that meeting and took charge of the various cheques and drafts. It may be that it was for his benefit that Able's letter to Town Centre of 7th May 1965 (Appendix D to this report) was written: or it may have been written as 'cover' for the new Town Centre board. At all events by that time the die was cast and Mr. Lee's main concern was no doubt to ensure that the 'completion meeting' was in fact successfully completed.

232. We cannot help feeling that Mr. Rosen and Mr. Lee sailed dangerously close to the wind in their attempt to circumnavigate section 54. But this is far from saying that we consider there to be good legal grounds for impeaching the validity of the mortgages granted by Town Centre to the Rosen trustees. Quite apart from the difficulties of proof and the uncertainties of litigation, there are two further hurdles. First, as we have pointed out already, the loans to Town Centre were made by the Rosen trustees and not by Mr. Rosen. Secondly, in order to get the mortgages set aside it would seem necessary to get the Court to

differentiate (or, in the Court of Appeal, to overrule) the decision of Roxburgh J. in *Victor Battery Co. Limited v. Curry's Limited* (1946 Ch 242) as to the validity of a mortgage given to secure a loan made in breach of Section 54.

233. There remains under this heading the question of the sales of the various Town Centre Group assets to Mr. Rosen's company, Linbourne, in July 1965. The contracts for these sales were conditional upon their being approved by a General Meeting of the Town Centre shareholders: but in the event they were completed without any such approval. This did not in our view affect their legal validity: approval was a Stock Exchange requirement and not a legal necessity, and by the time completion took place the Stock Exchange had already imposed its sanction by suspending dealings. It was open to the parties to the contracts to waive this condition, and they must be presumed to have done so.

E. The new board of Town Centre

234. The original intention was that at the 'completion meeting' the new board of Town Centre should consist of Mr. Salmond and Mr. Henry. They were the two directors of Star, and Mr. Salmond, with Mr. Winter, constituted the board of Able. But Mr. Henry was not acceptable to the Stock Exchange as a director of a quoted company and at the last moment Mr. Wood was appointed to the Town Centre board instead of him.

Mr. Wood resigned from the Town Centre board on 16th June 1965 when he was replaced by Mr. Watts; Mr. Watts resigned in October 1965 on the appointment to the board of Mr. Percy Phillips.

The only other director was Lord Colwyn who is recorded as having been on the board of Town Centre from 20th May 1965 to 16th June 1965.

In considering the part which these gentlemen played in the affairs of Town Centre, we start with Mr. Salmond and Mr. Wood because it was they who constituted the Town Centre board from and including most of the 'completion meeting' of 7th May 1965.

Mr. Salmond

235. Mr. Salmond describes himself as an insurance broker. He told us that he had been introduced to Mr. Robinson by Mr. Cradock who said that he (Robinson) had a number of companies in this country and wanted someone to sit on the boards of these companies as his nominee for which the nominee would receive £1,000 a year from each company. Mr. Salmond, who was clearly very impressed by Mr. Robinson and Mr. Cradock whom he regarded as men of wealth and importance, agreed to do so.

236. It is quite clear to us that throughout Mr. Salmond's periods of office as director of Star, Able and Town Centre, he merely did as he was told, without question or enquiry, at the instigation initially of Mr. Robinson and Mr. Cradock and subsequently (when they left the country) of Mrs. Miller. The picture which we have obtained of him from his own evidence and from other sources is of a man who was content to do whatever Mr. Robinson or Mr. Cradock required of him, who knew little or nothing of the affairs of the companies of which he was a director and who signed virtually anything which was put in front of him.

In fairness, we should mention that he appears to have received little money for his efforts. But even when the extent of the damage which had been done to Town Centre by its acquisition of Star must have been palpably obvious, he seems nevertheless still to have been prepared to help men like Mr. Cradock and Mr. Henderson in their attempts to sell the 825,000 Town Centre shares.

237. In the light of this background, there seems little object in making a detailed assessment of Mr. Salmond's responsibility. Legally, of course, his conduct was indefensible: but it is all too easy, in retrospect, to see what happened. From Mr. Robinson's point of view Mr. Salmond was the ideal 'front man', all too easily attracted by a display of wealth and lured to office by the promise of remuneration on a scale which was, we think, to Mr. Salmond considerable.

Mr. Wood

238. Mr. Wood described himself to us simply as 'a director' but it transpired that the only other company beside Town Centre of which he had ever been a director was his own joinery company. He had known Mr. Henry for a number of years and it was through him that he was introduced to Mr. Robinson. Like Mr. Salmond, he too was promised £1,000 a year to become a director of Town Centre.

239. Our impression is that at the 'completion meeting' Mr. Wood knew even less than Mr. Salmond: like Mr. Salmond he took everything on trust. He told us that the first he really knew about what had occurred was when he read the minutes.

240. Subsequently Mr. Wood told us, he did try to find out something about Town Centre's affairs but with no great success. He thought that there was to be a managing director appointed to run the business and that he (Wood) would attend regular board meetings: but that so far as he could remember he only went to two. According to Mr. Wood, Mr. Robinson 'was supposed to be the man with the money' and when Mr. Robinson disappeared and Town Centre became short of money he (Wood) became very upset. He said that he was then introduced by Mr. Henry to Mr. Cradock 'who was apparently behind the thing after Robinson disappeared.'

241. During the latter part of May and early June 1965, Mr. Wood seems to have seen Mr. Cradock quite frequently and told us that he (Cradock) was taking an active interest in Town Centre's affairs. Mr. Wood also told us that when he read the minutes of the 'completion meeting' he did not like the idea of Mr. Rosen (i.e. Linbourne) buying the various properties; that when the Stock Exchange suspended dealings in Town Centre shares (on 31st May 1965) he and Mr. Salmond came under considerable pressure from Mr. Cradock to complete the sales: but that he (Wood) refused and that this was the reason why he eventually resigned.

242. Mr. Wood told us that he was instrumental in getting Lord Colwyn to join the Town Centre board (on 20th May 1965). Apparently this was at the

instigation of Mr. Cradock who 'thought we should have other directors on the board.' This, according to Mr. Wood, was about the time that Mr. Robinson left the scene.

243. Mr. Wood's legal responsibility for what took place in Town Centre appears to be not dissimilar to that of Mr. Salmond; but of course his tenure of office was shorter. Moreover (unlike Mr. Salmond) he was never a director of Star or Able.

Lord Colwyn

244. Lord Colwyn's period of office as a director of Town Centre lasted for less than a month, from 20th May 1965 to 16th June 1965. This was a period during which little of importance occurred in Town Centre. We have not thought it necessary to ask Lord Colwyn to give evidence: nor has he asked to do so.

Mr. Watts

245. Mr. Watts is a qualified architect. He had known Mr. Salmond socially for about three years and the latter asked him to join the Town Centre board in June 1965 when Mr. Wood and Lord Colwyn resigned. Mr. Salmond told him (Watts) that he thought it would be an extremely good idea to have a technical adviser on property matters on the board.

246. Mr. Watts knew nothing about Town Centre at the time of his appointment. Mr. Salmond told him that Town Centre had a series of properties and was intending to expand. Mr. Watts' understanding was that he would be required to give architectural advice.

247. It did not strike Mr. Watts as odd that at the time of his appointment Mr. Salmond was the only director of Town Centre. He understood that two directors had recently resigned but was not told why: nor was he told anything about who was behind Town Centre. He said that he never attended a board meeting.

248. It is clear that Mr. Watts knew little or nothing about companies and we have seen nothing to suggest that he ever took any active part in Town Centre's affairs. This is not surprising, because by this time Town Centre was so short of money that there cannot have been any scope for Mr. Watts' architectural knowledge. He said that during his period of office he saw one or two critical press articles about Town Centre and that he asked Mr. Salmond about them but that he (Salmond) was 'very evasive'.

249. Eventually, in October 1965, Mr. Salmond told Mr. Watts that he was to be asked to resign to make way for Mr. Percy Phillips. The real reason was of course Mr. Phillips' insistence on being able, as chairman, to control the board of Town Centre.

F. Mr. Henry

250. Mr. Henry comes into our story, in terms of directorships, only as a director of Star. According to the Star minute book (which is by no means

reliable), he and Mr. Salmond were appointed directors of Star on 30th April 1965 in place of Major Spence and Mr. Sassoon of Third Mile (presumably in anticipation of the acquisition of Star by Town Centre under the tripartite agreement): Mr. Henry was appointed managing director on 6th May 1965; and he and Mr. Salmond both resigned (in favour of Major Spence and Mr. Stoner) on 23rd August 1965 when Star reverted to Third Mile on the cancellation of the tripartite agreement.

251. Mr. Henry is an insurance broker. He told us that he had known Mr. Cradock for some years prior to 1965 but had never met Mr. Robinson. Apparently his first connection with Town Centre was about April 1965 when, in the course of a casual conversation with Mr. Cradock, the latter said to his secretary 'I have just the chap for Robinson.' Mr. Cradock then asked Mr. Henry if he would like to join the board of a company (which Mr. Cradock did not name) and that if he did so Mr. Robinson would pay him £2,500. Mr. Henry agreed and was introduced to Mr. Robinson a few days later when he learned that the Company was Town Centre. Mr. Henry admitted to us that he thought that this was an unusual arrangement but that 'I thought he wanted nominees on the board and I had the impression that they had other ideas for Town Centre out of which they were going to make a great deal of money'.

252. The next step was to put forward Mr. Henry's name to the Stock Exchange for clearance but, as we have seen, he was turned down. Mr. Henry then told Mr. Robinson that he (Henry) would find someone else for Town Centre and introduced Mr. Wood to him.

253. Mr. Robinson offered to put Mr. Henry on the board of another of his companies (which turned out to be Star) as compensation for his having been turned down as a prospective Director of Town Centre, on the same terms: and Mr. Henry, at Mr. Robinson's request, attended the 'completion meeting' where he learned that Star was being acquired by Town Centre. Mr. Robinson suggested that he (Henry) should become managing director of Star (his salary of £1,000 a year plus expenses to be additional to the promised £2,500) to which Mr. Henry agreed. He then started to find out what Star owned. He had been led to believe that Star had an assured income of £75,000 per annum but he told us that when he had enquired a little further into the set-up at South Shields and was asked to join the boards of the Star subsidiaries 'I refused as I did not think they could ever possibly pay that money.' (This was a reference to the rent payable to Star under the under-leases) but that when he told Mr. Robinson this, the latter merely insisted that 'there was £75,000 income in Star'. It was about this time that Mr. Henry discovered that the Pilcher Hershman valuation had been used as the basis of the sale of the Star shares to Town Centre. His own view was that Star had acquired very little for what it had paid for the South Shields Sports Centre.

254. Mr. Salmond appears to have taken little or no active part in the affairs of Star but there is evidence that Mr. Henry did make at least some attempt to grapple with the problems at South Shields. He told us that he got very little help (which we can well believe) and that after the first month or two he had to use his

own judgment. He said that he and Mr. Salmond never held formal board meetings but that they occasionally had casual conversations.

255. Despite his difficulties in Star, Mr. Henry was able to find time in June 1965 to accept an invitation from Mr. Cradock to go to Majorca. According to Mr. Henry this was purely a social visit; certainly their business conversations seem to have centred mainly on the £2,500 which Mr. Robinson had promised Mr. Henry but had not yet paid: and when Mr. Cradock announced his intention of flying to Geneva to see Mr. Robinson, Mr. Henry decided to go with him.

256. Mr. Henry told us that Mr. Robinson did not appear to be very pleased to see him; in fact, according to Mr. Henry, Mr. Robinson said to Mr. Cradock 'What in the hell is Henry here for?' Mr. Henry's request for his £2,500 seems to have met with no response: Mr. Robinson's only suggestion was that Mr. Henry should take the £2,500 out of Star. Mr. Henry then threatened to resign from Star unless he got the money and he told us that Mr. Robinson promised to send him the money in two weeks: but that he never did.

257. The next move appears to have come from Mr. Cradock. He told Mr. Henry that although he had not got his £2,500 from Mr. Robinson he (Henry) 'could do himself a bit of good' if he could help Eastern Holdings to recover its loan to Able. Mr. Cradock told him that Landau & Kimche had lent £200,000 to Able on behalf of Eastern Holdings (of which Mr. Henry knew a little from conversations with Mr. Salmond). Through Mr. Cradock, Mr. Henry met Mr. Landau of Landau & Kimche in Zurich; Mr. Landau, as Mr. Henry put it to us 'was brief and to the point: he was concerned about the investment: they wanted their money back and had been told by Cradock that I could help. After discussion Mr. Landau said he was happy to leave it in my hands. If I was successful in getting the loan repaid I would be suitably remunerated.' Apparently Mr. Henry expected this remuneration to come from Landau & Kimche and his first step was to introduce Eastern Holdings to Theodore Goddard & Co. Thereafter, it seems, Mr. Henry devoted most of his energy to attempting to further the cause of Eastern Holdings and to protecting their interests in Town Centre. As we have seen, his association with Star terminated in August 1965 when Star reverted to Third Mile.

G. Mrs. Miller

258. We mention Mrs. Miller not because she held a position of any nominal importance but because she was very much at the centre of things, first as Mr. Cradock's secretary and subsequently as 'secretary to the directors' of Town Centre, Star and Able.

259. Mrs. Miller had apparently worked for Mr. Cradock at some time prior to 1965 and she told us that as a result of a chance encounter with him in January 1965, at a time when she wanted a job, he invited her to work for him again: and she did so from January to May 1965. Mr. Cradock then told her that he was going abroad and arranged for her to work for Mr. Robinson. Thereafter she appears to have been paid by Town Centre.

260. From May 1965 onwards (until she was dismissed in October 1965) Mrs. Miller undoubtedly knew a great deal about what was happening in Town Centre, Star and Able. Insofar as there was any link at all between the boards of these companies and Mr. Cradock (and to a progressively lesser degree, Mr. Robinson) she provided it and it was largely through her that such instructions as were given to the directors were received by them.

261. Mrs. Miller struck us as a woman of intelligence, and we got the impression that she knew a good deal about the general background. Many capable secretaries learn a great deal about the affairs of those by whom they are employed. The difference in the present case is that Mrs. Miller was not only an efficient secretary: she was in reality the source through which the directors to whom she was secretary received their effective instructions. She was an essential link in the type of plan which men like Mr. Cradock and Mr. Robinson seem to have had in mind.

H. Mr. Holt

262. We have already commented adversely in this report on the valuation which Mr. Holt of Pilcher Hershman made of the South Shields Sports Centre. Here we would only say that if it is not already improper for members of professional bodies which are concerned with valuations to accept instructions on the terms on which Mr. Holt appears to have accepted his instructions from Mr. Cradock, the sooner this is put right the better. Furthermore, we regard it as essential that professional valuers should decline to give a valuation where, as in the case of South Shields, the validity of the valuation depended entirely upon unchecked estimates.

I. The legal advisers

263. In the course of the multiple transactions which culminated in the 'completion meeting' of 7th May 1965 several different firms of solicitors were from time to time employed on different aspects. But no one firm seems to have been given sufficient information or to have made sufficient enquiries to enable it to perceive the true nature and intent of the transactions or to have questioned their propriety.

J. Mr. Cradock and Mr. Robinson

264. No one who has read this report can be in any doubt as to the real architects of the disaster which overtook Town Centre. The influence of Mr. Cradock and Mr. Robinson has permeated the whole of our investigation.

265. We have not been able to contact either of these gentlemen. As we understand it, neither of them (except possibly for brief and intermittent visits) has been in this country for the best part of a year. Mr. Cradock, we gather, now lives in Majorca. Mr. Robinson has been seen in Switzerland (where in September 1965 Mr. Rice one of the present directors of Sempah, succeeded in interviewing him) but his present whereabouts are not known to us.

266. Since we are anxious to present this report in time for some indication, at least, of its contents to be given to the Town Centre board prior to the forth-

coming Town Centre annual general meeting (convened for 21st June 1966) we have decided that no comparable advantage would be gained by protracting our investigation in the hope of arranging meetings with Mr. Cradock and Mr. Robinson (or with Mr. Douglas Henderson, whom we have also been unable to contact).

267. Mr. Cradock and Mr. Robinson must bear a major part of the responsibility for the events with which our report has been concerned. Of the two, Mr. Robinson's legal liability is the more obvious because as the officially appointed 'financial consultant' to Town Centre at the 'completion meeting' it might, we think, be possible to establish that he was a *de facto* director of Town Centre and as such was accountable to Town Centre for the serious damage which it sustained as a result of the events of 7th May 1965 to which he was a party: but the legal position of men such as Mr. Robinson and Mr. Cradock who, in effect, act as 'puppet-masters' without assuming the official mantle (and responsibilities) of a director raises a question of policy on which we comment further in Part VI of this report.

Conclusions

268. Throughout our investigation we have primarily been concerned with Town Centre, and with Star in its relationship to Town Centre. But it will also be apparent from the earlier history of Star, before Town Centre acquired it, that Star had been used as a vehicle for extracting £400,000 from Third Mile with an apparent profit of some £300,000 for those who in reality planned the operation (see paragraph 109 above).

So far as Town Centre is concerned, the immediate object of these same people was to extract £647,000 from Town Centre in order to finance their purchase of control of that company from Mr. Rosen. In the result, this £647,000 plus the further £15,000 which Town Centre subsequently lent to Able is now represented only by unsecured claims of doubtful value in Able's liquidation or (as to £150,000) by worthless Guiterman shares (see paragraphs 171 and 172 above).

269. Our investigation has, we hope, thrown some light on the methods by which men like Robinson and Cradock are able to manipulate the affairs of hitherto respectable companies like Town Centre.

Secondly it has illustrated the dangers which are inherent in a situation in which control of a company is liable to change over-night and underlines the need for further examination of the adequacy of the legal safeguards which are at present available to minority shareholders.

Thirdly, it has shown a need for strengthening the accountability of those who, although in fact in control of a company, seek to minimise their legal responsibilities by avoiding becoming directors themselves but who attain a similar result by the appointment of nominees who can be relied upon to do as they are told without question and, in all too many cases, with a complete ignorance of, or disregard for, the responsibilities which acceptance of the office of director should carry with it.

270. The definition of 'director' in section 455(1) of the Companies Act 1948 states that it 'includes any person occupying the position of director by whatever name called'. But for some purposes 'director' is given a wider definition: thus in section 415, for the purposes of Part X of the Act (which deals with companies incorporated outside Great Britain) it includes 'any person in accordance with whose directions or instructions the directors of the company are accustomed to act'.

We are aware of at least one unreported decision in which, as a result of the above definitions, the Court has felt constrained to hold that a controlling shareholder of a company incorporated *inside* Great Britain who in fact dictated the policy to be adopted by the directors without himself holding any official position in the company was not a 'director' within the meaning of Section 455(1).

It is, in our view, clearly desirable that this loop-hole should be closed.

271. It will be apparent from this report that a number of people contributed, in varying degrees, to the serious losses incurred by Town Centre. So far as civil liability is concerned it may be that few of them are worth pursuing. Moreover, Mr. Robinson and Mr. Cradock, so far as we are aware, are outside the jurisdiction. We imagine that they will take care to remain there.

MICHAEL WHEELER

CHARLES HARDIE

15th June 1966

APPENDIX A

List of Witnesses

(With their firms where relevant)

N. Bloom	Marks Bloom & Co. Chartered Accountants
D. Burgess	Stentiford & Co. Chartered Secretaries
R. H. Carter	
H. I. Connick	Thornton, Lynne & Lawson, Solicitors
D. Cottage	Donald Cottage & Co. Chartered Auctioneers, Surveyors and Valuers.
S. J. S. Eley	Stentiford & Co. Chartered Secretaries
P. W. Haydon	Whitfield, Byrne & Dean, Solicitors
G. Henry	
Dr. H. Hock	Singer & Friedlander Limited, Bankers
N. Holt	Pilcher Hershman & Partners, Estate Agents, Surveyors, Valuers and Auctioneers.
H. E. Howard	Charles Stanley & Co. Stockbrokers
G. C. H. Lawson	Thornton, Lynne & Lawson, Solicitors
D. Lee	Tringhams, Solicitors
Mrs. N. Miller	
Sir Howard Roberts	
C. K. Rosen	
P. N. Salmond	
G. Samuels	Samuels & Co. Solicitors (formerly, with Mr. Shine, Samuels and Shine)
N. Shine	Muscatt, Nelson & Co. Solicitors (formerly, with Mr. Samuels—see above)
Major H. R. Spence	
D. H. M. Stimson	Walter Burgis & Co. Solicitors
V. S. Stoner	
P. E. Tregaskis	Lombard Banking Limited
R. C. Watts	
D. Wood	

Town Centre Board Minutes of 7th May 1965

BOARD MEETING held at 1 Broad Street Place, London, E.C.2 on Friday 7th May 1965.

Present:

Mr. H. E. de Courcy Howard
Mr. P. N. Salmond
Mr. D. Wood
Mr. D. Lee
Mr. M. J. Ozin
Mr. C. K. Rosen

Mr. Nelson Robinson
Mr. P. H. Blackman—
Walter Burgis & Co.
Mr. G. C. Lawson—
Thornton Lynne & Lawson
Mr. D. E. Burgess—
W. H. Stentiford & Co.
(Secretaries)

427. The Secretaries produced letters of resignation signed respectively by Sir Howard Roberts and Mr. D. H. Maxwell Stimson.

428. Mr. Howard, as the sole remaining director, acting under the power conferred by Article 109 of the Company's Articles of Association, appointed Mr. Percy Norman Salmond as a director of the Company.

Mr. Salmond then took his seat.

429. There being a quorum then present, it was Resolved:—

‘THAT Mr. H. Edward Howard be and is hereby elected Chairman of the Board.’

Mr. Howard signed the minutes of the Board Meeting held on the 25th March 1965, and the Committee Meetings held on the 31st March, the 26th and 30th April 1965.

430. Mr. Howard produced a list dated 6th May 1965 detailing shares in the Company sold by him from 1st January 1964 to date.

431. There was produced a sealed and signed undertaking to procure the payment by the Company of the sum of £2,500 to Sir Howard Roberts, Mr. H. Edward Howard and Mr. D. H. Maxwell Stimson jointly or as they may direct by way of compensation for loss of office.

432. An undertaking sealed by Evan Williams (Holdings) Limited was produced concerning the offer to be made to the minority shareholders.

433. Mr. Howard tendered his written resignation as a director and left the meeting.

434. After an interval, during which board meetings of the subsidiary companies were held, Mr. Salmond, as the sole remaining director, acting under the power

conferred by Article 109 of the Company's Articles of Association, appointed Mr. David Wood as a director of the Company.

Mr. Wood then took his seat.

435. There being a quorum then present, it was Resolved:

'THAT Mr. P. N. Salmond be and is hereby elected Chairman of the Board.'

436. The secretaries produced forms of mandate from Barclays Bank Limited and it was resolved that the resolutions set out in the form attached to these minutes be read and construed as an integral part of the minutes.

437. It was Resolved:

'THAT the sum of £2,500 as compensation for loss of office should be made available by the Company and paid to the retiring directors for division between them in such proportion as they may agree and of which agreement they shall be requested to notify the secretaries as soon as possible, and that the secretaries be instructed to put in hand forthwith the convening without delay of the necessary meeting to sanction such payment.'

438. The secretaries were instructed to arrange for the transfer of all nominee shareholdings in subsidiary companies into the name of Mr. Salmond.

439. A letter of undertaking dated 7th May 1965 from Messrs. Walter, Burgis & Co. was produced in respect of three properties the deeds whereof were at H.M. Land Registry.

440. Mr. Blackman then left the meeting.

441. It was resolved that Messrs. Thornton Lynne and Lawson be and are hereby appointed solicitors to the Company in place of Messrs. Walter, Burgis & Co. and that the documents of title relating to the various properties owned by the Company and its subsidiaries be delivered into their custody.

442. It was resolved to seal a form of indemnity in respect of guarantees given personally by Mr. C. K. Rosen and this was accordingly done, the form of indemnity being handed to Mr. Rosen.

443. It was resolved, subject to approval by the Company in general meeting, to sell or procure the sale of the undernoted assets to Linbourne Investments Limited of 23 Portman Square, London, W.1. upon the terms of four agreements produced to and approved by the Board:

- (a) The 100 ordinary shares of £1 each fully paid in the capital of Strand Securities Limited beneficially owned by the Company, for a consideration of £6,850 less any monies owing by Strand Securities Limited to the Company and/or any subsidiary company of the Company and subject to apportionment in respect of outgoings paid in advance and income received in advance;

- (b) the freehold property known as No. 92 Queensway, London, W.2. owned by Talbot Investments Limited, for a consideration of £17,500;
- (c) the leasehold property known as No. 24F Union Street, Ryde, I.O.W. owned by Town Centre Properties (Subsidiary) Limited, for a consideration of £8,400;

and

- (d) the leasehold property known as Embassy Court, Wellington Road, London, N.W.8. and the land adjoining, owned by Town Centre Flats Limited, for a consideration of £206,000, less the amount owing on mortgage to Barclays Bank Limited, with the purchaser taking over the mortgage and setting the said amount against the purchase price.

It was further resolved that the contract mentioned in (a) above be sealed and signed by the Company and this was accordingly done.

444. It was reported that, in connection with the sales to Linbourne Investments Limited, because completion was deferred, Linbourne Investments Limited had arranged a loan from the trustees of the Lisa Fiona Rosen Settlement to the Company of £173,250. It was resolved to seal and sign a memorandum of charge in respect of this transaction and this was accordingly done.

445. It was resolved to borrow a sum of £473,750 from the trustees of the Lisa Fiona Rosen Settlement and to charge in respect thereof certain of the properties of the following subsidiary companies:

Talbot Investments Ltd.
Town Centre Properties (Subsidiary) Ltd.
Caxton Securities Ltd.
Hammersmith Broadway Investments Ltd.
Superstructure Developments Ltd.

A deed of mortgage was produced and it was resolved to seal and sign the deed and this was accordingly done. It was noted that the contractual date for redemption was 7th December 1965, and that the rate of interest was 12% per annum or 5% over Bank Rate, whichever was the higher, provided that if repayment were made on or before the 7th December 1965, interest was to be calculated at the rate of 8% per annum in lieu thereof.

A Memorandum of Deposit to secure the said loan of £473,750 was produced and it was resolved that any one director be and is hereby authorised to sign the Memorandum on behalf of the Company and this was accordingly done.

446. Mr. Lawson, Mr. C. K. Rosen and Mr. Ozin then left the meeting.

447. It was resolved that Mr. Nelson Robinson be and is hereby appointed Financial Consultant to the Company with the right to receive notices of and to attend Board Meetings.

448. It was resolved to purchase 1,174,285 ordinary shares of 2s. each fully paid of Star Explorations Limited for £540,811. 13. 6. from Evan Williams (Holdings) Limited. It was reported that Star Explorations Limited owned leasehold property having an unexpired term of 98½ years known as South Shields Sports

Stadium, that the rental payable amounted to £25,425 per annum and that arranged underlettings showed a profit rental of approximately £50,800 per annum. It was resolved to seal and sign an agreement to put this transaction into effect and this was accordingly done. It was also resolved to place £107,000 on deposit with Evan Williams (Holdings) Limited at 1 per cent above Bank Rate in accordance with a letter dated 7th May 1965 from Evan Williams (Holdings) Limited to the Secretaries.

It was further resolved to deposit £540,000 of the £540,811 13. 6. above referred to with Evan Williams (Holdings) Limited against the blank transfers and share certificates of Star Explorations Limited. A cheque for £647,000 in favour of Evan Williams (Holdings) Ltd. was therefore drawn and, Mr. Burgess having received a verbal assurance from Mr. Lee that as a result of the day's transactions the Company had sufficient funds to meet the cheque, it was signed by a director and the secretaries.

It was resolved that Messrs. Thornton Lynne & Lawson be instructed to deal with the completion of the transaction with Star Explorations Limited within 14 days and the secretaries were instructed to communicate this to the solicitors.

449. It was resolved to send an explanatory circular to members and to convene an Extraordinary General Meeting of the Company as soon as the Share & Loan Department of The Stock Exchange, London had approved the contents of the proposed circular. The secretaries were instructed to request Messrs. Thornton Lynne & Lawson to proceed at once to draft a suitable circular.

Chairman

APPENDIX C

Star Balance Sheet as at 1st March 1965

STAR EXPLORATIONS LIMITED

BALANCE SHEET at 1st March 1965

Fixed Assets

The South Shields Sports Stadium (See Note 1)	395,750	0	0
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Current Assets

Deposit with Douglas Henderson Ltd. (See Note 2)	129,498	10	0
Sundry Debtors (including interest accruing at 6% per annum on Deposit)	972	10	7
Cash at Bank	249	2	10
	<hr/>		
	130,720	3	5
	<hr/>		
	526,470	3	5

Less: Liabilities (See Notes 3, 4 & 5)

Provision for Taxation	500	0	0
Unclaimed Dividends	329	4	6
Director's Travel Expenses	178	0	0
Sundries	13	18	7
	<hr/>		
	1,021	3	1
	<hr/>		
	£525,449	0	4

Capital and Reserves

Issued Capital	117,428	10	0
Share Premium Account	11,446	8	4
Capital Reserve (See Note 1)	395,750	0	0
Profit and Loss Account	824	2	0
	<hr/>		
	£525,449	0	4

Notes

1. Valuation of the South Shields Sports Stadium subject to all the terms and particularly the Valuation Clause of a report by Messrs. Pilcher, Herschman & Partners dated 8.1.65

650,000 0 0

Deduct: Price of Freehold under option contained in Lease (exercisable within 10 years of 24.12.64)

254,250 0 0

Surplus put to Capital Reserve

£395,750 0 0

2. Repaid on 30.4.65 with accruing interest
3. Expenditure amounting to £96,475 and relating to the acquisition of the Lease of the Stadium, perfecting the Option and dealing with Sub-Leases and subsidiary Companies was advanced by Douglas Henderson Ltd. who waived this debt under Deed on 6.5.65.
4. No Provision has been made for liabilities (if any) in respect of trading contracts entered into on or before 1.3.65
5. The Company had a maximum obligation of £128,951 on 1.3.65 under Agreements, the release from which is currently being documented.

Signed G. HENRY—Director
 PERCY N. SALMOND—Director

APPENDIX D

Able's Letter to Town Centre of 7th May 1965

PNS/NM

The Secretary
Town Centre Properties Limited
1 Broad Street Place,
Finsbury Circus
London.

7th May 1965

Dear Sir,

As you are informed, we are in advanced negotiations with The London & Dublin Investments and Properties Ltd., whereby solicitors are nearing completion on the acquisition of Hartlepool Sports Centre for £540,000.

We would inform you that this company has likewise arranged a Lease with Ten Pin Bowls on a 21 year period, full repairing, at £55,000 per annum: the purchase has been calculated on a 10% return basis.

The make up of the transaction is as set out below:

£440,000 to be paid on completion

£100,000 to be retained for the completion of a new development taking place and being paid to Building Contractors upon presentation of Certificates.

We are committed to this transaction and on the understanding of our selling to you our holding in Star Explorations Limited, it is conditional upon the fact that we are placed in funds substantially to carry through this completion. Star has placed on deposit with this company, which we acknowledge receipt thereof, for the purpose of acquiring this, the sum of £132,500 and we would request you to formally place on deposit with us a further £107,000 as security against this transaction: these are the only conditions on which we will proceed with this completion.

Yours faithfully,

For and on behalf of EVAN WILLIAMS (HOLDINGS) LTD.

Chairman